



## **Public Works Department Regional Permit Plan**

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# **Regional Permit Program**

## ***Two Parts***

The Regional Permit *Program* consists of the Regional Permit Plan (RPP) and the Environmental Management System (EMS). The EMS is contained in a separate binder. This binder contains the RPP.

## ***Environmental Management System***

The EMS is an internal organization mechanism for managing the Department of Public Works. Through the implementation of standards identified in the ISO 14000 family, the Department can maintain a high level of environmental responsibility. The system defines how information is managed and communicated both internally and externally. The EMS tells the Department how to behave. This behavior sets the stage for improving the efficiency of permitting and project development. One of those improvements takes the form of a Regional Permit Plan.

According to the International Organization for Standardization, an EMS meeting the requirements of ISO 14001:2004 is a management tool enabling an organization of any size or type to:

- identify and control the environmental impact of its activities, products or services, and to
- improve its environmental performance continually, and to
- implement a systematic approach to setting environmental objectives and targets, to achieving these and to demonstrating that they have been achieved.

## ***Regional Permit Plan***

The RPP sets out an approach to managing the multitude of permits required by the Department for carrying out its projects. It begins with an orderly establishment of uniform conditions for projects in order to reduce processing time and increase consistency and effectiveness. It progresses towards a self-monitored permit using internet access for permitting agencies to monitor the compliance by the Department. Eventually, and this would likely require special legislation, the Department would issue its own permits, only to require auditing by the agencies normally entrusted with the permitting authority. The RPP is an outgrowth, or product of the EMS.

# Regional Permit Plan

## Introduction

A Regional Permit grants the applicant an entitlement to develop a multitude of projects that are part of a program within a distinct geographic region, such as a watershed, a range, or a road corridor. Permitting agencies would cooperate to manage activities and protect resources in a region, but step back from the details of project-specific conditions and compliance. These would be delegated to the County, which would be audited by the agencies.

The County of San Luis Obispo's Public Works Department builds both large projects and numerous smaller projects. From the Nacimiento Pipeline and Lopez Dam retrofit, to innumerable minor drainage and roadway efforts, Public Works is responsible for a large percentage of the construction that occurs in our County. Most of these projects require multiple permits from different agencies at different levels of government. This requires an orderly and efficient project permitting approach. Public Works also recognizes its role as a leader in construction management. Since the County is a government agency with permitting authority, it holds itself to the highest standards of regulatory compliance and environmental protection. This report is part of that effort.

The Department created an Environmental Programs Division (Division) that would oversee permitting and construction compliance requirements for public works projects. Instituting a Regional Permit System would reduce redundancy and free resources to further the Department's environmental objectives. More importantly, it would craft better solutions to environmental challenges. This approach would recognize that many projects within an area should be seen as part of a regional approach to environmental management. For example, all projects on San Luis Creek must be protective of steelhead movement.

## Objective

The Public Works Department would prefer to spend more time and money making projects work better for people and the environment, instead of spending that time and money on individual project permitting. While permitting provides an orderly manner of increasing the assurance that projects will be neutral or even beneficial to the environment, redundant efforts detract from project improvement.

The objective of the Regional Permit System is to offer the several permitting agencies a path to meeting their regulatory responsibilities—with reduced time, higher quality, and a more efficient investment of resources—so the County can use its resources to enhance the environment of San Luis Obispo.

## **Approach**

This project proposes an ascending set of steps—Phases—that would improve the Department’s capacity to create and manage a regional permitting system. These are not permitting approaches distinct from one another, but rather a progression of efficiencies, each made possible as the experience and infrastructure of the Department matures. Each Phase improves the Division’s capacity for resource management, broadens the database that informs future permitting and project design, and improves the quality of the result. In addition, a set of tools is developed that gives the Division the capacity to implement the phases.

## **Phases**

The four phases are:

**Consistent Conditions.** The Division develops a comprehensive set of ideal conditions that are tested and acceptable to all the permitting agencies.

**Consolidated Permits.** The Division works with the permitting agencies to allow for a single set of conditions under a consolidated permit that will apply to a project.

**Single Agency Oversight.** With consolidated permits will come the opportunity to designate a single agency to take the lead in overseeing permit compliance. Similar to CEQA’s Lead Agency status, the Agency with the greatest responsibility or involvement would assume the role.

**Audited Self Management.** This final phase brings the Regional Permit to fruition. The County would be allowed to manage the conditioning and processing of projects within a region that had been recognized by the permitting agencies as having a comprehensive control mechanism in place, one which fully realized all the tools set forth below.

## **Tools**

These are the tools that will be developed that make a regional permit approach manageable and successful:

**Organization.** Within the Division there must be roles established for the management and implementation of the system. The right people with the right education and background will create the organization that manages the system. They need to know the inner working of the permitting agencies so they can mimic their process, thus reducing the time necessary on the part of the agency.

**Regional Plans.** Each region that will be permitted must be delineated, have its resources inventoried, and have established a program for its protection during the implementation of the projects that would be developed.

**Permit Conditions.** These apply before during and after the development of a project. To work well, they must be clear and unambiguous, detailed regarding timing and responsibility, and they must be tested in the field. They should be an instruction

manual for environmental protection. They should be improved, but not constantly reinvented.

**Geographical information.** GIS provides both mapping and data for a region. The County has an extensive mapping program underway. All individual project permitting data—plans, schedules, conditions, photos, monitoring reports—would be referenced through GIS. Over time, this database would grow and provide information for future projects via a point on a map.

**Communication via internet.** Resource agency personnel are busy. The County will create a communication system that makes it easier for them to review projects. Emails will track compliance schedules, and let them know when a project milestone is reached and provide them with an electronic link to access the information. Paper reports can still be submitted in the format of the Agency to meet their requirements, but the personnel will have long since seen to the essence of the permit and the project.

### **Presumptions**

The principal efforts in evolving the regional permitting for Public Works will reside with the Division and not with the Agencies. It would be inappropriate to expect the permitting agencies to customize their procedures for the benefit of San Luis Obispo County. That being said, the work will require agency participation and “buy-in.” It is reasonable to assume that they would welcome the efforts of the Division when they result in a reduction of effort on the part of the permitting agency. Further, as the program matures and learning curves ascend, it is likely that agencies will come to rely more on the efforts expended to streamline permitting in the jurisdiction.

### **Background**

In 2002, the Department of Public Works created the Environmental Programs Division. Before this time, the Department relied on the efforts of the Environmental Coordinator and necessarily competed for limited resources that also had to process a very large volume of private permits.

The purpose of the Division was to integrate permitting and permit compliance into the projects of the Department. Several staff members work on the large number of County projects in planning or construction. The staff coordinates with the several permitting agencies acquiring entitlements for projects. By having a separate Division devoted exclusively to the public works projects sponsored by the County, an opportunity existed for the development of a comprehensive program for regional permits.

# Four Phases towards Regional Permitting

## **Phase 1: Consistent Conditions**

Projects that encounter the same resources (water, archaeology) tend to have the same mitigation measures, in the form of conditions. Agencies know this, and many permits are copied one to the next. A straightforward approach to permitting the many similar projects would reduce time, processing, implementing and monitoring.

This phase organizes conditions from various agencies by project type and resource area. A set of conditions is established that achieves the level of protection required of the most stringent condition, and this assumes that the other agencies will be satisfied. A master set of conditions is designed to show linkages to regulatory background, performance standards, and construction implementation. While projects would still get multiple permits, they would all have the same set of conditions, or at least where they overlapped in subject matter jurisdiction, they would have the same subsets of conditions.

Appendix C, which is located on the accompanying CD, is a spreadsheet with permit conditions that are common to many projects. These conditions were developed by comparing a large number of permits. Reviewing the conditions in this way facilitates a comparison of the various agencies approaches to permit issues. In most instances, overlapping conditions are very similar and lend themselves to consolidation.

The next step is to develop a set of conditions that have the following attributes:

- At least as restrictive as the most restrictive condition on multiple permits
- Clear requirements for who is responsible, timing of compliance, and reporting

## **Necessary Steps**

Agencies must agree to use the conditions developed by the County in their respective permits. Meetings and correspondence with each Agency would be necessary to gain their acquiescence to the conditions. Working with the Agency to review step-by-step each of the conditions and comparing them to their typical requirements to see that the Agency needs are met.

Step	Action
1	Complete sets of Golden Conditions for each project type
2	Meet with individual agencies
3	Modify conditions to accommodate the multiple agencies needs
4	Secure buy-in from all agencies

## **Second Phase: Consolidated Permits**

Building on the first phase, a single set of conditions would be established for a project that all agencies sign onto. The Division would develop the conditions, and the objective would be getting all agencies to agree on the single set. Uniform implementation, monitoring and reporting would be generated for all agencies.

Ultimately, a single, comprehensive permit would be developed that is recognized as sufficient by all the applicable permitting agencies for a particular project. The conditions would include a matrix indicating which conditions were applicable to which agencies.

As an example, a roadway bridge over a stream will require several permits, typically:

- Streambed alteration; California Department of Fish & Game
- Clean Water Act §404 permit; US Army Corps
- Clean Water Act §401 certification; RWQCB
- Coastal Development; Coastal Commission (in the Coastal zone)
- Others such as SHPO clearance, APCD compliance, USFWS consultation
- CEQA

It is not uncommon that four or five agencies will receive applications, engage public review, issue permits, and monitor compliance with a Public Works project. The purpose of this phase would be to implement a single permit (or at least a single set of conditions) that covers all responsible permitting Agencies.

Each of the agencies has a different regulatory mandate. With appropriate formatting, the permit can identify which condition is satisfying which agency's requirements. A cover sheet delivered to each agency along with the consolidated permit will assist them in identifying how the permit conforms to their regulations. This may be in the form of a table.

## **Permitting Agencies**

A regional permit system will require that the greatest effort will be on the part of the County, and not on the various agencies. As stated, it is unrealistic to expect each agency to create an idiosyncratic procedure to accommodate San Luis Obispo County. Nevertheless, there are a few steps that can be taken by agencies which don't require much of them, and will result in reducing their work efforts. As a continuation of the prior phase, the County would work with the Agencies to demonstrate that the permit conditions developed earlier were being adhered to and were resulting in project compliance.

Agencies from which the Division routinely receives permits are described in detail in Appendix A of the 2008 Environmental Management System Review and Analysis, repeated here as Appendix A of this report. The Agencies are briefly described here:

**California Department of Fish & Game.** The California Department of Fish and Game (CDFG) has a broad charter "to manage California's diverse fish, wildlife and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public."

**Regional Water Quality Control Board.** The State Water Resources Control Board and its Regional Water Quality Control Boards are charged with implementing the pollution prevention programs established through the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act. The State Board and the Regional Boards manage water quality in the state under a policy to achieve the highest water quality reasonably attainable.

**California Coastal Commission.** The California Coastal Commission's charter is to provide for the conservation and development of California's coastline by regulating development in the coastal zone and implementing coastal zone management programs. They issue Coastal Developments either within areas of their original jurisdiction, or more commonly, on appeal.

**U. S. Army Corps of Engineers.** The U.S. Army Corps of Engineers (Corps) oversees construction activities and dredge and fill work in U.S. waters in order to protect navigation, the public interest and the proper use of water resources.

**U. S. Fish & Wildlife Service.** The U.S. Fish and Wildlife Service (USFWS) is charged with management and protection of wild birds, mammals (except certain marine animals) and inland sport fisheries.

**National Marine Fisheries Service.** The National Marine Fisheries Service (NMFS) is responsible for administering the programs of the National Oceanic and Atmospheric Administration (NOAA). These programs provide support for the management and conservation of domestic and international living marine resources. The NMFS is also responsible for monitoring the social and economic effects of fishing practices and fishery regulations.

**Air Pollution Control District.** The APCD grants Authority to Construct Permits to manage air emissions from stationary sources. They are responsible for administering the California Air Quality Act

**Office of Historic Preservation.** SHPO is responsible for administering the National Historic Preservation Act. All activities that may impact historic or archaeological resources are reviewed by SHPO. NHPA's implementing regulations, found in 36 CFR Part 800, require federal agencies (and their designees, permittees, licensees, or grantees) to initiate consultation with the State Historic Preservation Officer (SHPO) as part of the Section 106 review process.

### **Necessary Steps**

Agencies must agree to consolidate conditions into a single permit. Of course, each permit must satisfy all of the agencies' requirements. An organizing matrix will be necessary to easily demonstrate how the conditions satisfy the agencies' needs. Cover sheets can be developed that look like Agency forms.

Step	Action
1	Establish agency-specific forms for their review
2	Meet with individual agencies or as a group
3	Prepare final permit format

### **Third Phase: Single Agency Oversight**

The objective of this phase is to designate one of the permitting agencies for a particular project as having oversight and reporting responsibilities to all the other agencies involved. The oversight agency will vary depending upon the type of project and the resources involved, analogous to the lead agency concept under CEQA.

For the oversight agency to manage a greater array of mitigation responsibilities, the Division must have the greatest burden of reporting and verifying compliance with permit conditions.

An essential ingredient of this phase is communication. The "lead" agency must be able to quickly access project data and communicate with both the Division and the other agencies.

For this stage to be implemented, the comprehensive GIS database and internet access must be in place. Described in detail later, the database contains all relevant project information, photographs, and monitoring reports. Access to this database must be prompted by the Division. Email will signal when the lead agency should access the database to review a project milestone. Instructions will be provided to the lead agency to facility easy dissemination of information to the other permitting agencies.

### **Necessary Steps**

It may be possible for agencies to delegate review authority to another agency so long as they maintain communication and receive reports sufficient to demonstrate permit compliance. However, it may be expedient, or even necessary to develop special legislation that would clearly allow the single agency oversight.

Step	Action
1	Legal review of agency requirements for permitting
2	Develop communication protocol for permit review
3	Secure special legislation is necessary

#### **Fourth Phase: Audit-Managed Self Permitting**

The ideal for the Division, especially in terms of project time management, is to do its own permitting. This is lofty, and could require special legislation, and certainly would not be uniformly acceptable to all agencies, especially federal. But it is in fact the EPA that provides the analogous route, a process known as federalism. Here a state agency takes over the regulatory management embodied in the EPA. As an example, the California Air Resources Board by the authority of the California Clean Air Act has taken over the role of the EPA in managing the state's air basins as well as stationary and mobile emissions. It does this by having promulgated regulations at least as stringent as the federal requirements. To ensure compliance with the federal Clean Air Act, the EPA conducts an audit of the California program to make sure they are meeting the requirements in fact.

The fourth phase relies most heavily upon the transparency afforded by the Division's web portal into their electronic permit monitoring system. Agencies must be able to view a project's progress quickly by seeing monitoring reports, up-to-date photographs, and by being able to comment through the portal. This transparency can be afforded the public as well, giving citizens the opportunity to review the progress of projects.

The first criticism of any self-managed program is the opportunity to fall short of meeting regulatory intent. But this is exactly how CEQA is modeled when the lead agency is proposing its own projects, and how federalism allows States to oversee federal requirements.

#### **Necessary Steps**

This would be a true delegation of responsibility, if accomplished at its most efficient level. It would almost certainly require special legislation. This phase would build upon the experience of working with consolidated permits and single agency oversight, the County becoming the ultimate responsible agency for their efforts.

Step	Action
1	Refine database and communication models
2	Meet with individual agencies or as a group
3	Train agencies in audit procedures/mechanisms

## **Constructing the Tools**

Each of the phases described above would utilize an evolving set of tools. As each phase progressed, the tools would be better organized and more sophisticated.

### **Organization**

The organization of the Division would necessarily evolve to accommodate the regional permits. More time would be spent by staff refining mitigation conditions and less time preparing agency permit applications and follow-up. A special position would be created, likely from an existing position, to manage the system and its progress.

### **Permit Compliance Officer**

A recommendation is to designate a person in the Division to be the Permit Compliance Officer. The Division will have a more consistent permit management by having one person review all the projects for compliance, as well as checking the accuracy and completeness of the project database. He or she would have the following responsibilities:

- Regularly review the permit database
- Check condition compliance against the project schedule
- Train staff on program contents
- “Train” agency personnel to use the database and communication tools
- Ensure that project information on the website is kept up to date
- Communicate with project managers, especially regarding project problems or delinquencies
- Visit project sites
- Report to the Division Manager, both on a routine basis, and especially when a problem arises
- Review project completion reports and forward to appropriate Agencies

### **Regional Plans**

Two conditions are necessary for a regional permit. A comprehensive set of conditions that satisfy the regulatory requirements for a given type of project, and an understanding of the resources of the permitted region.

Before the program can develop fully, the Division needs to establish a plan, or a set of plans covering each “region” that will be granted permits. Decisions are necessary

as to how the County will be divided and how the plan is developed. Here are some considerations:

- Each plan would be based upon a geographic delineation. There are already numerous divisions of the County; General Plan Areas, County road networks watershed's. Most agencies responsible for public trust resources will want permitting based upon natural divisions, such as watersheds, stream corridors, or distinctive habitats. The Area Plans provide a vehicle for implementing standards that grow out of the conditions developed for the regional permits. Natural geographic boundaries allow for consistent application of conditions to meet a particular region's environmental needs.
- Each plan would contain an inventory of resources, constraints and issues. The delineation of natural habitats, stream corridors and the built environment would inform cumulative analysis and the appropriate application of conditions. The inventory would be mapped on the GIS.
- Each plan would establish priorities for resource protection. Based upon the inventory, areas of concern would be established. These could be incorporated into project planning efforts so long term Public Works programs could minimize or avoid harmful effects, or the converse, they could be used to enhance resource protection, much the way the rebuilding of the Avila Bay Drive bridge over San Luis Creek solved a number of environmental problems.

Each plan would be submitted to the resource agencies for their approval. Because each agency operates under a different mandate, their acquiescence will require cooperative negotiation.

## **Permit Conditions**

### **Structure of Permit Conditions**

Conditions vary in their quality. Some are explicit about their intent, timing and implementation. Others only hint at these necessary aspects. The County of San Luis Obispo's Environmental Coordinator has developed a style of conditions that requires exposition of many of these elements.

The success of a permitting program will be improved with better conditions. Here are the necessary components of a permit condition:

### **Jurisdiction**

*Statutory jurisdiction.* A law exists that promulgates the particular authority for government control and action.

**Regulations.** Regulations typically are written to promulgate that statutory authority.

**Agency jurisdiction.** The law is assigned to a government agency.

**Subject matter.** The resource(s) to be protected by the condition.

## **Legal**

**Nexus.** A permit condition must be demonstrably related to the protection it promises to afford.

**Proportionality.** A condition must be fair in its scope, and demand no more than is required to fulfill its purpose.

**Performance standard.** Conditions should include a clear objective (e.g. “no erosion of soils into wetlands” or “80% survival of new plantings”).

## **Process**

**Timing.** Conditions pertain to planning, pre-construction, during construction or post construction.

**Notice.** Often particular parties must be apprised of the condition (property owners, other agencies, interested parties). Notice may be necessary immediately preceding implementation.

**Monitoring.** All conditions are monitored for timeliness, effectiveness and to insure they do not cause other, unanticipated problems. The following rules govern monitoring and inspections:

- Inspections should occur before problems are covered up, before grading commences, while trenches are open, before footings are poured.
- They should be done at a time that would prevent the loss of invested resources. In other words, inspections should occur before labor and materials are expended in the wrong direction.
- The number and timing of inspections should be efficient so as to accomplish to two rules above with the least number of visits.

## **Design**

**Flexibility.** There are dangers in not having specifics for meeting a project condition. On the other hand, the situation in the field is often different than predicted, or contractors may have a better idea or more experience with particular situations. The project should not suffer because of adherence to an approach that was good on paper. One solution is to offer a specific approach, but state that an alternative method that meets the performance

standards can be substituted, with the permission of the permit granting authority.

**Duration.** Conditions may need to persist throughout the life of the project, or may just be needed during the rainy season, or during initial grading.

**Material.** If a performance standard is used (e.g. “keep the water out”) then the specifics of how to achieve this may not always be required. But it is prudent to at least suggest a specific mechanism (e.g. straw wattles). It is best not to leave specifics entirely to the discretion of the contractor, who is guided by cost-savings.

**Installation.** How and when mitigation measures are installed can be part of the condition. While many measures are industry standard by now, and contractors are better educated about them, there will always be room for interpretation and occasionally the novice contractor who will need and even appreciate the guidance.

## **Implementation**

**Responsibility.** Someone must design the measures to carry out the condition, someone must pay for them, and someone must install them.

**Bid Documents and Contracts.** Conditions should be included in construction bid requests and then in the contracts if they are the responsibility of one of the contractors. It is not prudent to assume the bidding contractor will seek out the EIR or permits to ascertain the conditions that will be required. It is best if these are explicitly provided with the bid request.

## **Observation and Follow-up:**

**Mitigation monitoring plan.** Like that required by CEQA, each condition should contain a feedback component to make sure it was in fact implemented, that it is working, and that it is not causing unintended negative consequences.

**Specific events.** Many conditions need monitoring at some point during the project life. Events such as rain, high water, spring flowering, migration episodes, may trigger monitoring.

**Post-project.** Planting, restoration and other conditions that need tending for a period of time after the contractors have left, require follow-up monitoring. Most important is to know who will be responsible for the observation and repairing of any deficiencies (typically failed plantings or erosion). If the responsibility of the contractor, then contractual requirements need to be explicit. It is often difficult to get the contractor back after the job is “finished.”

## **Sample condition**

To illustrate the structure identified below, a sample condition is provided here.

### **Condition Bio-1-A**

**Wetland protection.** Pursuant to Sections 10 and 404 of the Clean Water Act, no fill may be placed in a wetland. The ACOE, RWQCB and CDFG have oversight of these requirements. All project activities should be conducted to avoid impacts to wetlands.

**Process.** During project design, and before any physical activity takes place, the applicant will develop and provide the County with a wetland protection plan. The plan will include all methods for wetland protection, and will specify the timing of notice to the County (e.g. prior to specific construction activities).

**Design.** The applicant will design an erosion control mechanism on all slopes over 12% which lead to the edge of a wetland. Appropriate measures may include straw wattles, siltation fencing, contouring or others that prevent soils from entering the resource. The following installation methods are required:

**Wattles.** Must be staked every four feet, must be run parallel at contours, must be overlapped at least 20 inches....

**Siltation fencing.** Must be buried four inches, staked every 4 feet....

**Implementation.** Wetland protection measures shall be implemented by the construction company. Therefore, they must be specified in the bid documentation, and incorporated into the appropriate development contracts.

**Timing and Monitoring.** All wetland protection measures must be in place before grubbing and ground-breaking activities commence. These should be inspected immediately prior to any forecasted rain, and monitored during the course of ground disturbing activities and until the construction area is stabilized.

## **Review of Previous Permits**

A review of over 70 permits issued to the Division was undertaken. Conditions attached to each of those were compiled and organized by several criteria. Groupings were made to identify common features, with the intent of developing an ideal set of conditions. These are in Appendix B. A large matrix of County permit conditions is presented on a spreadsheet in Appendix C.

## **Geographic Information**

The Environmental Programs Division would establish and maintain County-wide mapping of all projects; proposed, under construction and complete. This would be available over the internet. By accessing the Divisions website, Agency personnel

could click on a project site, or access a list of permitted projects. The database would include the following:

***Project location.*** The cover sheet for the GIS would identify all projects, allowing for a point and click access to the project-specific database. Most County projects are located outside of urban areas and cannot be located by address.

***Aerial photograph.*** The project location could be viewed from the County aerial photography. This allows the reviewer the best information for understanding the project's physical context.

***Project plans.*** These would include all construction details relevant to environmental permitting. It would also include the project schedule with clearly identified milestones.

***Project photographs.*** These would be provided by monitors, and routinely uploaded into the project file for review by Agencies.

***Permits and conditions.*** This would be the matrix of all permit conditions, including timing, responsibility, monitoring and compliance notes.

***Agency comments.*** Agencies would be able to comment on project activities and condition compliance. These would be automatically transmitted to the appropriate staff at the Division.

## **Communication**

The regional permit system will only work if there is excellent communication between the County and the Agencies. This requires not only diligence on the part of County personnel, but an efficient and effective system of information retrieval.

## **Meetings**

The Division Manager and Permit Compliance Officer should meet regularly with the agency representatives to go over projects and procedures. These meetings can be quarterly or more often as needed. They can occur as necessary for special or large projects, or for emergencies. By going through a list of ongoing projects in a single meeting, the Division saves time normally used by individual staff for individual projects. Typically, most County projects will be straightforward and the discussion will be perfunctory. Also typically, there will always be a project or two that are complicated and controversial and will require the bulk of the time in the meeting.

## **Emails**

More than random communications, emails will be engineered to be sent on a particular schedule, and designed to provide very specific information. The email will contain information for agency personnel about the project status. It will include instructions to the agency on what action may be required and how that can be fulfilled. It will also have links to the County GIS website that will take the person

directly to the project information files. Automatic responses will be generated to the Division indicating that the agency has reviewed and acknowledged the information.

## **GIS**

All project information, as described above, will be available via the Division web page with will provide access to the GIS database. This will include readily apparent locations for the agency to type comments or questions back to the Division.

## **Conclusion**

A regional permit program can be undertaken immediately by the Division. Following the above-recommended phases, and building the identified tools, the process can get underway and evolve into a full regional system over time.

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**Appendix A**  
Agency Profiles

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## Introduction

Public works projects in San Luis Obispo County are reviewed by a number of other agencies, each with its own statutory requirements established by State or Federal law. Typically, each agency applies its authority in a manner designed to satisfy the agency's understanding of the individual statute which it is charged with implementing. How each agency goes about meeting their legal obligations with respect to applying environmental law is dependent on the scope of the agency's authority (local, state or national), the relationship between agency staff of their governing board(s), the complexity of regulations developed to implement a particular statute, and the language of the statute itself.

Key agencies involved in environmental regulatory permitting in San Luis Obispo County are:

1. The County itself, as the Lead Agency under the California Environmental Quality Act and as the implementing agency of the Certified Local Coastal Plan pursuant to the California Coastal Act.
2. The California Department of Fish and Game, through the authority of the California Fish and Game Code and the California Endangered Species Act
3. The California Regional Water Quality Control Board, implementing Section 401 of the Federal Clean Water Act
4. The California Coastal Commission, through the authority of the California Coastal Act
5. The U.S. Army Corps of Engineers, implementing Section 404 of the Federal Clean Water Act and Section 10 of the Federal Rivers and harbors Act
6. The U.S. Fish and Wildlife Service through the authority of the Federal Endangered Species Act
7. The National Marine Fisheries Service through the authority of the Federal Endangered Species Act

## **A. San Luis Obispo County Department of Planning and Building**

### Charter

The mission of the San Luis Obispo County Department of Planning and Building's Environmental and Resource Management Division is to provide environmental review and resource planning services for San Luis Obispo County that result in the maintenance of a high-quality environment consistent with the California Environmental Quality Act and other applicable regulations. The Department's goal is to provide timely, courteous, and cost-effective environmental and energy services, which protect and enhance natural resources and the quality of life.

### Background

The Environmental and Resource Management Division of the Department of Planning and Building, headed by the County Environmental Coordinator, was primarily established to perform environmental review. Environmental review is the evaluation process that the California Environmental Quality Act (CEQA) requires public agencies to conduct before taking action to approve a project. Environmental review is a set of procedures used to identify a project's potential impacts, develop ways to reduce those impacts, and report the results of the analysis to the public.

In order to implement CEQA, the Environmental and Resource Management Division of the Department of Planning and Building performs the following:

- Administers the California Environmental Quality Act consistent with all applicable regulations.
- Prepares and administers plans and ordinances pertaining to offshore and onshore energy, resource extraction, conservation, energy efficiency, and the protection and restoration of critical habitats.
- Reviews projects for potentially significant environmental impacts and, where possible, develops mitigation measures or project alternatives that will reduce these impacts to insignificant levels.
- Ensures mitigation measures are adequately monitored and reported in coordination with other agencies where applicable.
- Encourages cooperation and support among all county departments concerning environmental issues.

### Jurisdiction

The Environmental and Resource Management Division of the Department of Planning and Building performs project reviews to evaluate the potential impacts of public and private projects (as defined by CEQA) on environmental resources throughout San Luis Obispo County. Because San Luis Obispo is a public agency, CEQA must be applied to all

discretionary county "projects". CEQA defines a project as any activity directly undertaken by any public agency "which may cause either a direct physical change in the environment, or a reasonable foreseeable indirect physical change in the environment." CEQA processes and documents for projects proposed by the Department of Public Works are prepared by the Environmental Programs Division (Public Works) following the CEQA environmental review process. The work is then reviewed and approved by the Environmental Coordinator (Planning Department). The working relationship between the two environmental divisions is described in a Memorandum of Understanding (MOU) between the two departments.

### Authorizing Acts

*California Environmental Quality Act (CEQA)*: Requires all public agencies to adopt specific criteria, objectives, and procedures for implementing CEQA. These procedures are in addition to the more general statewide guidelines.

*The County CEQA Guidelines* were last revised and adopted by the Board of Supervisors on August 15, 1995. The Guidelines are intended to facilitate County compliance with CEQA and standardize procedures for the evaluation of projects, as well as assist the department with preparation of environmental documents when the county is the Lead, Responsible, or Reviewing agency under CEQA.

### Permits and Certificates

The San Luis Obispo County CEQA Guidelines contain exemptions from environmental review requirements for certain types of projects that are not expected to damage the environment. As detailed in the County's CEQA Guidelines, the County has adopted the state CEQA Guidelines list of statutory and categorical exemptions, as defined in Articles 18 and 19 of the State CEQA Guidelines. Some examples of categorical exemptions include: (1) repair, remodel, or minor additions to existing facilities; (2) construction of a single-family residence; and (3) gardening, landscaping, or minor grading for a driveway or sidewalk. All discretionary project proposals must be reviewed by the Environmental Coordinator for CEQA compliance even if they are likely to be found exempt.

If the Environmental and Resource Management Division determines that special circumstances exist that could result in environmental damage, a proposal will be subject to environmental review even if it normally could be exempt. For example, standard road paving might be exempt, unless it requires tree removal, or a parcel might be in the flood plain, have special habitat or a historic building, or have other characteristics that would trigger the need for environmental review. A project proposed on a parcel such as this is not likely to qualify for an exemption.

Once a project is determined not to be exempt under CEQA, the environmental review process commences, as described in the CEQA Chapter. In the case of most public works projects, the project is either determined to be exempt or it receives a Negative Declaration/Mitigated Negative Declaration.

### Submittal Requirements

Submittals must generally include enough information to evaluate the project's potential environmental impacts. This includes, but is not limited to the following:

- location map
- accurate and detailed project description
- environmental technical reports (cultural, biological, geology, etc.)
- site photographs
- description of other required permits

Early consultation is always recommended; however, a project proponent must be able to provide enough of a project description to begin the review process.

### Processing Time

CEQA specifies processing time requirements for private project proposals. However, when the County is evaluating its own projects, most statutory time limits contained in CEQA do not apply. Since each project is unique, processing times will vary. One review might be processed within 6 to 8 hours because there are only one or two minor issues to investigate. Another project may require significant research, computer modeling, vegetation or wetland preservation plan analysis, or may have long public review periods that increase processing time.

### Enforcement

San Luis Obispo County can revoke a permit and initiate a civil case if a project violates conditions of a county permit or approval. However, the County typically defers enforcement action to an appropriate resource agency if the non-compliance involves a specific resource issue (e.g., the EPA for issues associated with the Clean Water Act, the CDFG for issues associated with streams and special status species).

### Contact Information

Mailing address: Ellen Carroll  
Environmental Coordinator, County of San Luis Obispo  
Department of Planning & Building  
County Government Center  
San Luis Obispo, CA 93408

Phone: (805) 781-5600  
 Fax: (805) 781-5603 - Planning & Building  
 (805) 781-1242 - Current Planning  
 (805) 781-5624 - Long Range Planning

## **B. California Department of Fish and Game**

### Charter

The California Department of Fish and Game (CDFG) has a broad charter "to manage California's diverse fish, wildlife and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public."

### Background

The Board of Fish Commissioners (predecessor to the Fish and Game Commission) was established in 1870 "to provide for the restoration and preservation" of fish in California waters. This was the first wildlife conservation agency in the country. In response to the growing importance of game conservation, the Commission's name was changed to the Fish and Game Commission in 1909. By 1927, the administrative functions of the Commission were assumed by the newly established Division of Fish and Game, which was elevated to department status in 1951. On the 100th anniversary of fish and wildlife conservation in California, the state legislature enacted the California Endangered Species Act in 1970, charging the CDFG with the task of identifying and protecting California's rare and endangered species.

Headquartered in Sacramento, today's CDFG is organized into five geographic regions. San Luis Obispo County falls under the jurisdiction of the Central Coast Region (Region 3), headquartered in Yountville.

### Jurisdiction

- Any project that will divert, obstruct, or change the natural flow or bed, channel or bank of any stream, river or lake designated by the CDFG.
- Any project that will remove or use any material from a streambed.
- Any project subject to CEQA review that could impact fish and wildlife resources. As the trustee agency for state fish and wildlife resources, the Department of Fish and Game reviews and comments on CEQA documents and, when necessary, prepares mitigation recommendations (see Section 1802 of the Fish and Game Code).
- Any work that will take, remove, collect, or transport any previously known plant or animal species listed as rare, threatened, or endangered by the State of California.

## Authorizing Acts

*Fish and Game Code, Sections 1601 to 1607:* Made it unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream or lake designated by the CDFG or use any material from the streambeds without prior notification to the CDFG. Further, the CDFG will negotiate an "agreement" for protection of fish and wildlife resources before this type of work can take place.

*California Species Preservation Act of 1970:* Directed the CDFG to develop criteria for rare and endangered species, inventory all threatened fish and wildlife and report to the governor and the legislature every two years on the status of listed species.

*California Endangered Species Act of 1970, as amended in 1984 and 1997 (Fish and Game Code Chapter 1.5, Section 2050 et. seq.) (CESA).* Expressed the legislature's concern for California's wildlife species facing decline, set definitions of "threatened" and "endangered" wildlife, and gave authority to the Fish and Game Commission to designate animals as either threatened or endangered. CESA prohibits the "taking" of listed species except as otherwise provided in state law. Unlike its federal counterpart, CESA applies the take prohibitions to species petitioned for listing (state candidates).

*California Native Plant Protection Act of 1977:* Directed the CDFG to preserve, protect, and enhance native plants. This act gave the Fish and Game Commission the power to designate native plants as endangered, threatened, or rare and to require permits for collecting, transporting, or selling such plants.

*Article IV, Section 20 (State Constitution):* Established the Fish and Game Commission.

## Permits and Certificates

*Streambed Alteration Agreement under Section 1602.*

Under the Fish and Game Code, any person is prohibited from conducting work in a lake or streambed without a Streambed Alteration Agreement. The purpose of the agreement is to "mutually agree" to specific measures designed to protect and restore fish and wildlife habitat. Thus, the Streambed Alteration Agreement is not a permit, but rather an agreement on how work will proceed. It should be noted, however, that Streambed Alteration Agreements often include provisions for the CDFG to stop work in the case of a violation of the agreement. All Streambed Alteration Agreements require compliance with CEQA. In the case of a public agency project, the public agency acts as the Lead Agency and prepares the CEQA document while CDFG acts as a responsible agency, basing their CEQA responsibilities on the Lead Agency document. San Luis Obispo County is typically the CEQA Lead Agency for County Public Works projects; therefore, the CEQA process will need to be complete before the Streambed Alteration Agreement application is made, in order to include the adopted CEQA document in the application.

### *Incidental Take Permits*

CDFG has the authority to issue incidental take permits pursuant to sections 2080 and 2081 of the California Endangered Species Act (CESA). These permits are necessary for all projects where there will be the incidental take of endangered, threatened, or candidate species. Accompanying regulations are contained in the California Code of Regulations at sections 783 - 783.8 and 786-786.6.

### Submittal Requirements

#### *Streambed Alteration Agreements*

Prior to any work in a lake or stream subject to CDFG jurisdiction, send an application to CDFG's regional office in Yountville using the standard form "Notification of Lake or Streambed Alteration" together with the appropriate attachments ( Gravel/Sand/Rock Extraction Questionnaire; Additional Information for Projects Included in Timber Harvesting Plans; Water Diversion Questionnaire; Routine Maintenance). The application should include the following attachments to ensure that the CDFG has all of the information necessary to promptly process the request:

- a detailed project description
- proposed mitigation measures to protect fish and wildlife resources and/or mitigate for project impacts
- copies of any fish, wildlife, or habitat mitigation plans already prepared for the project
- certification of compliance with CEQA (including a copy of the certified document)
- site-specific plans and drawings detailing the proposed modification of the river, stream or lake
- copies of any other relevant permit conditions
- evidence of payment of Fish and Game CEQA filing fees
- fee payment

The regional office processes the application and assigns it to a local warden or biologist. Based on a discretionary on-site inspection, the Fish and Game representative may suggest modifications or conditions to protect fish and wildlife in the project area. The Fish and Game representative may request additional information from the applicant, but must make recommendations on the proposed activity within 30 days of receipt of the application. The applicant has 14 days to accept or reject deny any modifications proposed by the local Fish and Game representative. Time frames may be extended by mutual agreement.

The applicant may contest the local Fish and Game representative's modifications in writing and request a meeting. If the parties reach an impasse, the applicant may ask for an independent arbitration panel. The panel may settle disagreements and make binding decisions regarding project modifications to protect fish and wildlife.

If CDFG takes no action on the application within 60 days of it being accepted as “complete”, the application is approved by operation of law and the applicant may proceed with the project.

### *Incidental Take Permits*

Under the CDFG's regulations, an application for an incidental take permit must be submitted on Form FG 2081 B to the CDFG Regional Manager. Included in this application will be:

- a detailed description of the project
- a list of the species names to be covered by the permit
- an analysis of the impacts of the proposed taking of the species
- mitigation measures
- a description of the funding source for the monitoring and mitigation measures

Additional requirements will be implemented in order to comply with CEQA, depending on whether the CDFG will be the responsible agency or the lead agency on the project. The CDFG has 30 days to complete an initial review of each application and a final determination must be made within a time period not to exceed 150 days if the CDFG is acting as the responsible agency or 180 days if the CDFG is the lead agency. After acceptance of a completed application, CDFG will review the document to insure it is in compliance with CEQA. A Notice of Public Availability will then be distributed and the application and analysis will be subject to public review for a minimum of 30 days. After the CDFG has received comments from the public and all public agencies involved with the project, a Notice of Decision will be filed with the Secretary of the Resources Agency within five working days of issuing the incidental take permit.

### Processing Time

1600 Permit: 5-11 months

Incidental Take Permits under 2080 and 2081: 12-18 months

### Enforcement

It is a violation of California law to allow into a stream "any substance or material deleterious to fish, plant life, or bird life" (Fish and Game Code Section 5650). The CDFG has the authority to levy fines of up to \$25,000 and make arrests for violations. The CDFG also has the authority to levy fines and make arrests for violations of Streambed Alteration Agreements and the California Endangered Species Act. Criminal penalties for illegal take of listed and candidate species can be as high as \$5,000 in fines and one year in jail. In addition to criminal penalties, the CDFG can also sue and recover civil penalties that are often much higher, especially in cases where multiple violations have occurred.

## Contact Information

### Incidental Take Permits

Carl Wilcox  
Supervisor of Environmental Services  
California Department of Fish and Game  
P.O. Box 47  
Yountville, CA 94599  
(707) 944-5500

### Streambed Alteration Agreements

Streambed Alteration Agreement Coordinator  
California Department of Fish and Game  
P.O. Box 47  
Yountville, CA 94599  
(707) 944-5500

Additional information is available at [www.dfg.ca.gov](http://www.dfg.ca.gov). Also, see San Luis Obispo County's website at [www.co.slo.ca.us](http://www.co.slo.ca.us) for information on endangered species compliance.

## **C. Regional Water Quality Control Board**

### Charter

The State Water Resources Control Board and its Regional Water Quality Control Boards are charged with implementing the pollution prevention programs established through the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act. The State Board and the Regional Boards manage water quality in the state under a policy to achieve the highest water quality reasonably attainable.

### Background

The federal Clean Water Act established the U.S. Environmental Protection Agency (EPA) as the implementing government agency for pollution control. The act also provides for delegation of implementing and enforcing pollution prevention programs to the states, provided EPA has approved the state programs. In California, the Porter-Cologne Water Quality Control Act establishes a state program for implementing federal requirements and regulating water quality that, on balance, are more stringent than the federal program. In practice, all water quality permitting is accomplished through the State Board and local Regional Boards. The EPA is rarely involved.

*The State Water Resources Control Board Organization*

The State Board oversees statewide water quality issues such as allocation of new water rights, water appropriation laws, and federal Clean Water Grant programs. The nine Regional Boards issue waste discharge requirements, National Pollutant Discharge Elimination System (NPDES) permits, and Water Quality Certifications. They are also responsible for inspection and enforcement activities.

### Jurisdiction

The State Board has jurisdiction over all surface water and groundwater in the state. The definition of these water resources has been very broadly interpreted. The Board must approve any activity that may discharge "waste" to these waters, such as:

- waste discharge to outfalls
- waste water discharges
- waste water treatment plants
- septic systems
- discharges from holding ponds, settlement basins, or dewatering operations
- any waste spread on land surfaces
- surface impoundments, dry wells, or injection wells for disposal of wastewater
- storm water runoff
- underground and above ground storage tanks

### Authorizing Acts

*Clean Water Act of 1965, as amended in 1987 and 1995:* Outlined a broad policy established to address water pollution through a system of permitting designed to control, and eventually eliminate, water pollution. Amendments set goals of "zero toxic discharges" and "fishable" and "swimable" surface waters. The act established the NPDES and authorized the EPA to act as the implementing agency. The EPA has very powerful enforcement authority and may assess large fines for illegal discharges and noncompliance with the Clean Water Act.

*Porter-Cologne Water Quality Control Act of 1969:* Chartered the State Board and nine Regional Boards. The act also established a state program to meet the statutory requirements of the Clean Water Act on pollution control and water quality regulation. In many instances, the California state water quality standards are more stringent than federal water quality standards.

*The NPDES Program:* All discharges of pollution or waste (broadly defined as anything that effects the natural environment) to waters of the United States (again, broadly defined) require a permit. The requirements apply to any industrial facility, public facility, publicly owned treatment works (POTW), sewage treatment facility, or source of storm water runoff. The NPDES permit will impose discharge limits and requirements for monitoring and reporting.

NPDES permit applications are reviewed with the specific water body and its water quality objectives in mind.

*California State Water Quality Program:* The Regional Boards implement federal regulations, review permits and set goals for water quality through the Water Quality Plan or the Basin Plan for the applicable region. These plans outline "beneficial uses" of water, such as drinking, agricultural, industrial, power generation, and fish habitat. "Water quality objectives" more or less set limits for specific pollutants to protect specific beneficial uses applied to various waterways.

### Permits and Certifications

#### *Request for Water Quality Certification*

Any activities that require a federal license or permit must obtain a water quality certification as required by Section 401 of the federal Clean Water Act. A certification that the project is consistent with state water quality standards may be issued for relatively benign projects, and may include specific conditions, at the discretion of the Regional Board. Generally, San Luis Obispo County public works projects are issued conditional water quality certifications when the project is adequately designed to protect from water quality impacts.

#### *Application for Waste Discharge Requirements (State)*

Waste discharge requirements from the Regional Board may be required for any facility or activity that will discharge waste to land thus potentially affecting groundwater quality. For some types of minor discharges (e.g., septic systems), the Regional Board may delegate permitting responsibilities to local agencies.

#### *NPDES Stormwater Permits (Federal)*

A permit is required for any discharges (both point-source and nonpoint-source) from industrial facilities directly to surface waters (it does not apply to groundwater).

*General Industrial Storm Water Permit.* The State Board has issued a General Permit (Number CAS000001) for storm water discharges associated with industrial activity under the NPDES program. This permit applies to all storm water discharges for industrial facilities. Although federal regulations allow the option for individual permits, the State Board has elected to adopt one statewide permit.

*General Municipal Separate Storm Sewer System Permit.* The State Board has issued a General Permit (Number CAS000004) for storm water discharges from small municipal separate storm sewer systems. This permit applies to all storm water discharges from urbanized areas (as defined by EPA and the State) and requires the implementation of an approved Stormwater Management Program that addresses six areas: Public education;

public participation; Illicit discharge detection and elimination; Construction site runoff control; Post-construction stormwater management; and Municipal operations.

*General Construction Storm Water Permit.* The State Board has issued a General Permit (Number CAS000002) for Storm Water Discharges Associated with Construction Activity. This permit applies to all construction projects that disturb more than 1 acre and requires the implementation of a detailed Storm Water Pollution Prevention Plan.

*General Permit for Low-Threat Discharges.* The Central Coast Regional Board issues a General Permit for Low-threat Discharges for discharges where the potential threat to the water supply is very low, such as dewatering or desalination activities. This permit can be issued for discharges that are ongoing or intermittent.

*Individual Permits.* The RWQCB issues individual permits for certain types of discharges that are not covered under the General Permit (e.g., sewage treatment plants, etc.). Individual Permits are issued at the discretion of the Central Coast Regional Board.

### Submittal Requirements

#### *Request for Water Quality Certification*

Submit the Section 401 Water Quality Certification Application Form with a detailed description of the project and construction methods as well as documentation of CEQA compliance to the Central Coast Regional Board, with the appropriate filing fee. Include supporting drawings and documentation of environmental mitigation measures and confirm application for U.S. Army Corps of Engineers Section 404 and Fish and Game 1600 permit applications. Request the Board's certification that the project is consistent with state water quality standards.

#### *Waste Discharge Requirements*

Submit Form 200 "Report of Waste Discharge" to the Regional Board. Applicants proposing to discharge must submit 120 days before they intend to begin discharging waste. The report submittal requirements are provided in the regulations. When the application is submitted, the Regional Board reviews it for completeness, requests additional information as needed, and provides for public notification. After this review and public comment, the Regional Board staff will prepare proposed effluent limitations, special conditions, and a monitoring program for the discharge. The recommendation may include a waiver of discharge requirement if the discharge is determined insignificant. This recommendation is submitted to the Regional Board for approval and once approved, the final requirements or a waiver are forwarded to the applicant.

### *Notice of Intent for General Construction Storm Water Permits*

Submit a Notice of Intent (NOI) and appropriate fee using the State form to the State Board (Not the Regional Board.) The NOI is essentially a commitment by the applicant to comply with the terms of the General Construction Stormwater Permit. The applicant must prepare and implement a project specific Stormwater Pollution Prevention Plan (SWPPP). The State Board will review the NOI and return a Letter of Receipt, acknowledging that the NOI is received. The State Board will notify the Regional Board of the receipt of the NOI; the Regional Board may or may not conduct site inspections to ensure the adequacy and proper implementation of the SWPPP. Construction projects that are underway in the fall of each year must submit an annual report and fee detailing the status of the SWPPP implementation until the project is complete and there is no threat of discharge.

### *General Permit Conditions*

The Storm Water Programs are intended to be self-governing. Applicants are responsible for meeting the General Permit conditions and preparing a Storm Water Pollution Prevention Plan. Since it is not necessary to submit the SWPPP to the Regional Board, the applicant must keep a copy at the site. The Regional Board can conduct announced or unannounced inspections of the facility or construction activity and the Regional Board inspectors can impose enforcement actions for failure to comply with the General Permit or the SWPPP.

The General Industrial Storm Water Permit sets specific discharge limits for some types of industrial activities under EPA's Storm Water Effluent Limitations Guidelines. The permit requires application of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate industrial storm water pollution. These measures must be detailed in a SWPPP.

The General Construction Storm Water Permit does not set specific discharge limits for storm water discharges during construction. Instead, it requires application of "Best Management Practices" (BMP's) that, when applied properly, are likely to adequately protect water quality and meet the water quality objectives of the Basin Plans.

### Processing Time

Application for Water Quality Certification: 30 days  
 Report of Waste Discharge: 120 days or more  
 Notice of Intent: 30 days or less  
 Preparation of SWPPPs: 30 days or more

### Enforcement

The Central Coast Regional Board is responsible for enforcing the General Permits in San Luis Obispo County. Construction sites may be inspected for compliance, and if found to be in violation, an inspector may issue a permit violation in the form of a Notice to Comply,

Notice of Violation, or Cease and Desist Order. Failure to obtain a General Permit, failure to develop or implement an adequate SWPPP, failure to minimize non- storm water discharges or limit storm water discharges, or failure to monitor and perform inspections are all violations of the federal Clean Water Act and California Water Code.

Any permit noncompliance is grounds for enforcement action and/or removal from General Permit coverage. Civil penalties of up to \$10,000 per day plus \$10 per gallon of sediment-laden runoff or wastewater discharged for each violation may be imposed by the Regional Board. Fines of up to \$25,000 per day for each violation may be assessed if imposed by the Superior Court. Violations of the Clean Water Act can also give rise to EPA's civil and criminal enforcement powers under Section 309 of the Act. Enforcement may include civil, criminal, or administrative penalties, or permit suspension and revocation sanctions authorized under the Act.

### Contact Information

Regional Water Quality Control Board  
Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

State Water Resources Control Board  
Division of Water Quality  
Attn: Storm Water Section  
P.O. Box 1977  
Sacramento, CA 95812-1977

## **D. California Coastal Commission**

### Charter

The California Coastal Commission's charter is to provide for the conservation and development of California's coastline by regulating development in the coastal zone and implementing coastal zone management programs.

### Background

#### *California Coastal Commission*

A statewide ballot initiative established the California Coastal Zone Conservation Commission in 1972. With passage of California's Coastal Act in 1976, today's California Coastal Commission (State Commission) was formed to regulate development in California's 1,100-mile-long coastal zone in accordance with the state's coastal management program.

The State Commission assists local governments in developing local coastal programs and reviews and approves each program. After the State Commission approves a local coastal program, regulation of most coastal development is delegated to local government. The State Commission is required to periodically review each certified local coastal program to determine whether the program is being effectively implemented in conformity with the Coastal Act. The State Commission additionally conducts special studies toward solving coastal problems, manages a public access program, handles appeals, and coordinates state involvement in federal coastal projects.

The State Commission consists of 16 members representing four state agencies, the public (6 members), local government (6 members), and a staff. The State Commission meets once a month in various locations throughout the state. The State Commission is supported by a staff, organized into a Headquarters Office in San Francisco and five District Offices located in San Francisco, Santa Cruz, Ventura, Long Beach and San Diego. There is also a legislative liaison office in Sacramento. San Luis Obispo County falls under the jurisdiction of the Central Coast District Office in Santa Cruz.

#### *Local Coastal Authority*

San Luis Obispo County's local coastal program was certified by the State Commission in February of 1988. The Local Coastal Plan empowers the County. Through its Planning Department, to review projects and issue Coastal Development Permits. Unlike the State Commission, which has jurisdiction over federal activities through the Coastal Zone Management Act, the County Planning Department only reviews projects based on state law (i.e., the California Coastal Act). The Local Coastal Plan is incorporated into existing county policies and regulations through an amendment to the Land Use Element for the Coastal Zone and certification of a Land Use Ordinance for the Coastal Zone.

#### Jurisdiction

Any development within the coastal zone requires a coastal development permit reviewed by either the State Commission or the County Planning Department. Development outside the coastal zone may also require consistency review pursuant to the Coastal Zone Management Act if the project will provide service to the coastal zone or may impact the coastal zone.

#### *Local Jurisdiction*

Because San Luis Obispo County has an approved local coastal program, the County Planning Department can issue permits for work in the coastal zone. The County Planning Department maintains maps of the coastal zone, which generally is defined as the coastline extending inland 1,000 yards. However, there are several areas where the coastal zone extends further inland because of important habitat, recreational, and agricultural resources. These areas include the Nipomo Dunes, Hearst Ranch, the Morro Bay Watershed, and other north coast areas.

### *State Jurisdiction*

The State Commission retains permit authority over some areas, including (but not limited to) the immediate shoreline, tidelands, submerged lands, and public trust lands. The County Planning Department can provide assistance in determining whether a project may require additional review by the State Commission. The State Commission also retains authority to determine whether federal activities that effect coastal resources are consistent with California's federally approved Coastal Management Program (CCMP) pursuant to the requirements of the federal Coastal Zone Management Act. This applies to activities both in the coastal zone as well as activities outside the coastal zone that may affect coastal resources (e.g., work in streams that drain to the coastal zone; utility or public works projects that provide service to the coastal zone. Thus, if a project involves a federal permit or funding (e.g., the U.S. Army Corps of Engineers, Federal Highway Administration, or Federal Emergency Management Agency), the State Commission must review the project for consistency with the CCMP.

### Authorizing Acts

*Federal Coastal Zone Management Act of 1972:* Requires states to prepare a Coastal Management Program. California's program received federal approval in 1978. All federal activities must be consistent with the California Coastal Management Program.

*Proposition 20 and enactment of the California Coastal Zone Conservation Act of 1972:* Established the California Coastal Commission's predecessor, the California Coastal Zone Conservation Commission and the Coastal Zone. Required the Commission to prepare a Coastal Plan, which served as the basis for the subsequent California Coastal Act of 1976.

*California Coastal Act of 1976 (California Public Resources Code, Section 3000, et. seq.):* Established the California Coastal Commission as a permanent state coastal management and regulatory agency and created a unique state and local government partnership to assure that public concerns of statewide importance are reflected in local decisions about coastal development. The main policies established in the Coastal Act are to provide maximum public access, protect marine and land resources, maintain productive coastal agricultural lands, minimize sprawling coastal developments, protect the scenic beauty of the coastal landscape and locate necessary coastal energy facilities where they will have the least adverse impact.

### Permits and Certificates

The County Public Works Department submits an application to the County Planning Department and/or the State Commission depending on their jurisdiction (as described above). Projects that are determined to be categorically exempt do not need further review. Projects that are not exempt, but are found to be consistent with local policies, are issued a waiver (meaning they do not need further review). Certifications are granted for projects that require more thorough review but are still found to be consistent with the Local Coastal Plan.

Projects with potentially significant impacts or inconsistencies with the Local Coastal Plan require a Coastal Development Permit. The following sections describe each of these possibilities in more detail.

### *Categorical Exemptions*

Provisions for categorical exemptions are provided in the Coastal Act. The State Commission has established exemptions under the California Code of Regulations, Title 14, Subchapter 5-7 and has provided guidance in various administrative proceedings. Generally, maintenance and repair activities are exempt, provided they are not "extraordinary" as defined in these regulations. For example, substantial repair of a seawall or retaining wall requires a permit. The following activities are generally exempt from permitting under the Coastal Act:

- repair or maintenance that will not enlarge an existing structure (or road footprint)
- installation, testing, or replacement of necessary utility connections for developments approved by the Coastal Commission
- replacement of any structure (except a public works facility) which is destroyed by a disaster

Projects that pose a risk of substantial adverse environmental impact or lie within a local coastal program jurisdiction that deems a permit necessary are not exempt. The County Planning Department can provide assistance in determining whether a proposed project qualifies for an exemption.

### *Waivers and Certifications*

If a project is not exempt, a waiver of permit requirements may be granted for projects that:

- a) have no potential for adverse effects on coastal resources and
- b) are consistent with the policies of the Coastal Act.

Waivers are recommended by the County Planning Department or State Commission staff after a preliminary review of the permit application has determined that the above criteria are met. Waivers can be contested by four or more State Commissioners. If a project is thought to have potential impacts, the local or state agency (i.e., County Planning Department or the State Commission) having jurisdiction in the area of the project will go through the provisions of the Local Coastal Plan line by line and prepare a staff report. If, after this review, the project is found to be consistent with the Local Coastal Plan, a certification may be granted. If a project is not consistent with the Local Coastal Plan, a Minor Use Permit or Coastal Development Permit is required.

### *Minor Use Permit (Local Jurisdiction Only)*

At the local level, the County Planning Department issues Coastal Development Permits using the County's Minor Use Permit process for projects with minor impacts. The Hearing Officer

can issue Coastal Development Permits/Minor Use Permits without full review by the Planning Commission.

#### *Conditional Use Permit (Local Jurisdiction Only)*

Projects that substantially modify land or water use in the coastal zone require a Coastal Development Permit issued through the Conditional Use Permit process. Coastal Development Permits/Conditional Use Permits require action by the County Planning Commission at a noticed public hearing.

#### *Coastal Development Permit (State Issued)*

Nearly all County decisions on Coastal Development Permits are appealable to the Coastal Commission. In addition, in certain areas, action by both agencies (the County and Coastal Commission) is required for approval of a Coastal Development Permit. The Commission considers Coastal Development Permits at regular public hearings in locations around the State.

#### Submittal Requirements

Projects located within the Coastal Zone trigger a set of procedures designed to coordinate the efforts of the Public Works Department with the requirements and responsibilities delegated to the County Planning Department. The procedures require early consultation between the departments to ensure that the objectives of the project are met while ensuring compliance with the Local Coastal Plan. Essentially, providing project information and technical data is the responsibility of the Public Works Department while the Planning Department functions in a review role. Public Works projects within the Coastal Zone are reviewed using the same standards applied to private development projects.

#### Processing Time

Exemption Determination: One to two weeks  
 Coastal Development Permit/Minor Use Permit: Four to six months  
 Coastal Development Permit/Conditional Use Permit: Six to eight months  
 Coastal Commission Waiver: 1 week to 2 months

Note: All time estimates assume no action by the Coastal Commission is required. When Commission involvement is necessary, add 6-8 months to each time frame

#### Enforcement

The County Planning Department has the authority, under the Local Coastal Plan, to revoke permits and fine applicants in cases where permit conditions have been violated. In practice, however, the local coastal authority generally defers enforcement actions to the State Commission.

The Executive Director of the State Commission has authority to issue Cease and Desist Orders to stop any activity that is in violation of a permit or provisions of the Coastal Act. In addition, the Executive Director may refer violations of a permit or any term, or violations of the provisions of the California Coastal Act to the California Attorney General for appropriate action. Civil penalties may be issued from not less than \$500 to a maximum of \$30,000, or a maximum of \$15,000 for each day a violation persists.

### Contact Information

#### *Coastal permit and local coastal issues*

Steve Guiney  
California Coastal Commission  
Central Coast Office  
725 Front Street, Suite 300  
Santa Cruz, Ca 95060  
(408) 427-4863

#### *Federal consistency issues*

James Raives  
California Coastal Commission  
Federal Consistency  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
(415) 904-5292

## **E. U.S. Army Corps of Engineers**

### Charter

The U.S. Army Corps of Engineers (Corps) oversees construction activities and dredge and fill work in U.S. waters in order to protect navigation, the public interest and the proper use of water resources.

### Background

The Corps has been regulating activities in navigable waters since the 1890's under the Rivers and Harbors Act. Until the 1970's, the primary purpose of the regulatory program was to protect navigation. Since then, as a result of environmental protection laws (most notably the Clean Water Act), the program has been broadened so that it now considers the full public interest for both the protection and utilization of water resources. The Corps oversees the

permit program for work and/or structures in navigable waters and the dredging of, and/or placement of fill in, waters of the United States.

### Jurisdiction

San Luis Obispo County falls under the jurisdiction of two Corps districts. The Los Angeles District covers the area along the western side of the Santa Lucia and Garcia Mountains (i.e., the watershed that drains to the Pacific Ocean). The eastern side of the Santa Lucia and Garcia Mountains (i.e., the Salinas River watershed) falls under the jurisdiction of the San Francisco District.

Under Section 10 of the Rivers and Harbors Act, the Corps has jurisdiction over any work or structure in or affecting navigable waters of the United States (see Figure 2-1). The shoreward limits of the Corps' jurisdiction extends to the line on the shore reached by the plane of the mean high water in coastal areas and the ordinary high water (OHW) mark in rivers and lakes. The seaward limit of the Corps jurisdiction extends three nautical miles from the baseline. However, wider zones are recognized for certain activities occurring on the outer continental shelf. Examples of Corps jurisdiction include:

- construction of piers, wharves, marina ramps, intake structures, and overhead electric line or pipeline crossings, and
- dredging and excavation

Under Section 404 of the Clean Water Act, the Corps has jurisdiction over the discharge of dredged and fill material into waters of the United States. In tidal waters, the landward limit of the Corps jurisdiction extends to the high tide line or when adjacent wetlands are present to the limit of the wetlands. In non-tidal waters, the limits of jurisdiction extend to the ordinary high water mark and if adjacent wetlands are present, the jurisdiction extends beyond the limit of the ordinary high water mark to the limit of the adjacent wetlands. When the water of the United States consists only of wetlands, the jurisdiction extends to the limit of the wetland. Examples include, but are not limited to:

- site development fills for residential, commercial, or recreational developments
- construction of breakwaters, levees, dams, dikes, and pipeline crossings
- bank stabilization devices such as, rip-rap, groins, and seawalls
- road fills
- beach nourishment

Under Section 103 of the Marine Protection Research and Sanctuaries Act, the Corps jurisdiction extends seaward from the baseline to the limit of federal waters.

### Authorizing Acts

*Section 10 of the Rivers and Harbors Act of 1899 (33 V.S.C. 403):* Prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps.

*Section 404 of the Clean Water Act of 1972, as amended (33 V.S.C. 1344):* Requires a permit from the Corps for any discharge of dredged or fill material into waters of the United States.

*Section 103 of the Marine Protection Research and Sanctuaries Act of 1972, as amended (33 V.S.C. 1413):* Authorizes the Corps to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters.

### Permits and Certificates

The following activities may be exempt under Section 404 of the Clean Water Act:

- normal farming, ranching, and forestry activities, such as plowing, minor draining, and harvesting
- constructing and maintaining stock ponds or irrigation ditches, or maintaining drainage ditches
- constructing or maintaining farm, forest, or temporary roads for moving mining equipment
- maintaining or reconstructing structures that are currently serviceable
- activities regulated by an approved best management practices program authorized by Section 208(b)(4) of the Clean Water Act
- construction of temporary sedimentation basins outside waters of the United States

The above activities may be subject to regulation if they convert or impact waters of the United States.

There are no exemptions under Sections 9, 10 and 13 of the River and Harbor Act and Section 103 of the Marine Protection Research and Sanctuaries Act.

As presented below, Corps permits may take several different forms, including a Nationwide Permit, Regional General Permit, or Individual Permit.

#### *Nationwide Permits*

The Corps developed the Nationwide Permit program to simplify and expedite the permitting process for activities that have minimal impacts, individually and cumulatively, and are not contrary to the public's interest. Nationwide permits are published in the Federal Register for broad categories of activities, along with criteria and conditions. The National Environmental

Policy Act (NEPA) review has already been completed for each activity category by the Corps' Headquarters Office in Washington DC.

Typical Nationwide Permits used by San Luis Obispo County include #3 (Maintenance), #13 (Bank Stabilization), and #18 (Minor Discharges).

In all cases, the permittee must comply with the terms and conditions of the Nationwide Permit, as set forth in the regulations. In addition to the general conditions, the Corps may add activity-specific conditions to its written "verification" to ensure that the authorized activity complies with the terms and conditions of the Nationwide Permit and results in only minimal impacts on the aquatic environment. The Corps can impose mitigation measures to reduce the adverse impacts to a minimal level. However, if the project cannot adequately be mitigated to a level of minimal impact on the aquatic environment and/or is contrary to the public's interest, the Corps can assert its discretionary authority. Discretionary authority results in the project being analyzed under the Individual Permit process.

The Nationwide Permits are reissued, modified or revoked every five years. Detailed information on changes to the Nationwide Permit program is available on the Corps web page at <http://www.usace.army.mil/>.

### *Regional General Permits*

The Regional General Permits are established by the Corps' district offices or division office for a category or categories of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. Regional General Permits are also established when the general permit would avoid unnecessary duplication of regulatory control exercised by another agency, provided that the environmental consequences of the action have been determined to be individually and cumulatively minimal.

Regional General Permits must be reissued, revoked or modified every five years. Like Nationwide Permits, Regional General Permits are designed to expedite the permitting process. To establish a Regional General Permit, the Individual Permit process must be followed. This requires the Corps to prepare a combined environmental document that complies with NEPA and the 404(b) (1) Guidelines, and evaluates the probable effect of the proposed work on the public interest. Once the Regional General Permit has been issued, individual activities falling within the regional permit do not have to be further authorized by the individual permit procedures. On a case-by-case basis, the Corps can exercise discretionary authority to override the regional permit and require an individual permit.

### *Individual Permits*

For activities that do not qualify for an exemption, Nationwide, or Regional General Permit, or activities that may have significant environmental effects, the Corps must issue an Individual Permit. An Individual Permit may be issued either as Engineering Form 1721, the

standard permit, or as a Letter of Permission. A standard permit is processed through the typical review procedures, which include public notice, opportunity for a public hearing, consideration of comments, and preparation of an environmental document. If the activity is minor or routine with minimal impacts, then it may qualify for a Letter of Permission (LOP). A LOP can be issued much more quickly since public notice is not required and LOPs are categorically excluded from NEPA. In the Los Angeles District, LOPs can only be utilized for activities subject to Section 10 of the Rivers and Harbors Act.

Each application for an Individual Permit requires a full public interest review. The public interest factors are identified in 33 CFR Part 320.4. The Corps will make a final decision only after distributing a public notice to all known interested persons or soliciting comments from the resource agencies, and evaluating all comments and information received. If requested by an interested person or agency, the District Engineer may conduct a public hearing on the application. The Corps will balance the benefits and effects of a project when deciding to issue or deny a permit. The Corps is prohibited from issuing a permit if the project is contrary to the public interest.

Under the 404(b) (I) Guidelines (40 CFR Part 230), the Corps is precluded from issuing a permit if there are less environmentally damaging practicable alternatives. If the project is proposed in a special aquatic site (i.e., wetlands) and is considered non-water dependent, practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise. Furthermore, the Guidelines require impacts to be avoided and/or minimized. The Corps and EPA have developed a Memorandum of Understanding (MOU), referred to as the Mitigation MOU, which outlines the sequence of mitigation the Corps must consider: avoidance, minimization, and then compensation.

Examples of mitigation that may be appropriate and practicable include, but are not limited to:

- alternative locations
- reducing the size of the project
- establishing buffer zones to protect aquatic resource values
- replacing the loss of aquatic resource values by creating, restoring, and enhancing similar functions and values

Permittees should also consider mitigation banking and other forms of mitigation, including contributions to wetland trust funds, which contribute to the restoration, creation, replacement, enhancement, or preservation of wetlands. See the Appendix for a list of standard mitigation measures for specific impacts on typical county projects.

## Compliance with Other Federal Laws

### *Clean Water Act Section 401*

If an activity triggers Section 404 of the Clean Water Act, the Corps is precluded from issuing a permit until the required certification under Section 401 of the Clean Water Act has been obtained or waived. The Regional Water Quality Control Board has conditionally certified some of the Nationwide Permits.

### *Coastal Zone Management Act*

For projects in or affecting coastal zone resources, Section 307 of the Coastal Zone Management Act of 1972, as amended [16 V.S.C. 1458(c)], requires the applicant to certify that the project is in compliance with an approved State Coastal Zone Management Program and that the state concurs with the applicant's certification prior to the issuance of a Corps permit. To satisfy federal consistency requirements, the California Coastal Commission must either waive federal consistency or concur with the applicant's certification. Alternately, if the applicant has already obtained a Coastal Development Permit, the Commission may consider that permit as "equivalent" to certification. See the Coastal Commission profile for further information.

### *Endangered Species Act*

The Corps must ensure compliance with the Endangered Species Act (ESA) before issuing a permit. The ESA requires the lead federal agency (the Corps) to consult, formally or informally, with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) if a project may affect a federally listed species or critical habitat. See the USFWS and NMFS profiles for more information.

### *National Historic Preservation Act*

The Corps must comply with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) any time it issues a permit for a project. Briefly, archival and field studies may need to be conducted, and cultural resources inventoried and evaluated in prescribed ways. As a general rule, any project that disturbs native soils (i.e. soils that have not been previously disturbed) will need to be evaluated for potential impacts to cultural resources. See the Appendix for more information on cultural resources compliance.

### *National Environmental Policy Act (NEPA)*

Each application for an Individual Permit and establishment of Regional General Permits requires complete environmental review, as required under NEPA. The Corps' NEPA procedures ensure that public officials and private citizens obtain and provide environmental information before federal agencies make decisions concerning the environment. In selecting

alternative project designs, the Corps strives to choose options with minimum environmental impact.

NEPA review has already been completed for Nationwide Permits and Letters of Permission are categorically excluded from NEPA.

### Submittal Requirements

#### *Nationwide Permits*

Some Nationwide Permits require notification, while others do not. For documentation purposes, the San Luis Obispo Public Works Department may send a notification letter with certain attachments, whether or not notification is required by the Corps.

#### *Regional General Permits*

Submittal and notification requirements vary for Regional General Permits. Check with the Corps engineer responsible for the jurisdiction in which the project is located (i.e., Los Angeles, or San Francisco District) to determine the specific application requirements.

#### *Individual Permits*

When a formal permit is required, Engineer Form 4345, Application for a Department of the Army Permit, must be completed. Along with the application form, the following information is usually required, depending upon the characteristics of the individual project:

- name and address of applicant
- name, address, and title of authorized agent
- detailed description of proposed activity (including a vicinity map and drawings) names and addresses of adjoining property owners, lessees, etc.
- water body and location on water body where activity exists or is proposed
- location and land where activity exists or is proposed
- information about completed activity
- information about approvals or denials by other government agencies
- signature of applicant or agent

#### *Pre-application Consultation Meeting*

Periodically, the Corps hosts interagency meetings to discuss and provide constructive comments to proposed projects before a formal application is made. These meetings can help identify the type of permit and the necessary information and level of detail needed to submit with an application. A public notice is distributed informing the public of the scheduled meeting and seeks agencies and individuals to discuss their upcoming project(s) with those in attendance. In addition, the County may schedule a pre-application meeting

with the applicable regulatory agencies. To schedule such a meeting, it is recommended that the Corps be contacted one to two months in advance. The Corps prefers that a two-page synopsis, vicinity map, and drawings be provided by the applicant prior to the meeting.

### Processing Time

Some categories of activities that have been previously authorized by Nationwide or Regional Permits may not require further Corps approvals. Others may qualify for abbreviated permit processing, with authorizations in the form of Letters of Permission, in which a permit decision can be made in less than 90 days. For other activities, a public notice may be required to notify federal, state, and local agencies, adjacent property owners, and the general public of the proposal. Most applications involving public notices are completed within twelve months. Applications requiring a full Environmental Impact Statement (BIS) can require two years or more. Processing time is also longer for projects with cultural resources or threatened and endangered species. In emergencies, decisions can be made in a matter of days.

### Enforcement

Any time it is determined that a permittee is in non-compliance with the terms and conditions of a Corps permit, the Corps has the power to take enforcement action. Additionally, any discharge of fill material to waters of the United States without a permit is considered a violation of Section 301 of the Clean Water Act. This in turn gives rise to the Environmental Protection Agency's civil and criminal enforcement powers under Section 309 of the Act. Enforcement may include civil, criminal, or administrative penalties, or permit suspension and revocation sanctions authorized under the Act.

### Contact Information

#### Los Angeles District

U.S. Army Corps of Engineers  
Regulatory Branch  
2151 Alessandro Drive, Suite 110  
Ventura, CA 93001  
(805) 585-2140

#### San Francisco District

U.S. Army Corps of Engineers  
Regulatory Branch  
333 Market Street, Room 1002E  
San Francisco, CA 94105  
(415) 977-8464

## **F. U.S. Fish and Wildlife Service**

### Charter

The U.S. Fish and Wildlife Service (USFWS) is charged with management and protection of wild birds, mammals (except certain marine animals) and inland sport fisheries.

### Background

The USFWS was created as an agency by the Department of the Interior in 1940 to protect the nation's fish and wildlife resources. Since the passage of the Endangered Species Act (ESA) in 1973, the USFWS acts as the primary agency responsible for overseeing the protection and conservation of all fish, wildlife, and plants found to be in serious jeopardy. Protecting endangered and threatened species and restoring them to a secure status in the wild is the primary objective of the endangered species program of the USFWS. The USFWS's endangered species responsibilities include the following:

- listing, reclassifying and delisting species under the ESA
- providing Biological Opinions to federal agencies on their activities that may affect listed species
- enforcing species protection under the ESA
- overseeing recovery activities for listed species
- providing for the protection of important habitats
- providing grants to states to assist with endangered species conservation efforts

The Secretary of Commerce, through the National Marine Fisheries Service (NMFS), is given similar authorities for commercial and marine fisheries and protected marine mammals.

The USFWS is also charged with the development and management of National Wildlife Refuges for migratory birds and endangered species; a system of fish hatcheries; management of populations of migratory game birds; acquisition and application of technical knowledge necessary for perpetuation and enhancement of fish and wildlife resources; biological monitoring of development projects; and enforcement of federal fish and game laws.

The USFWS is organized into seven regions within the United States. San Luis Obispo County falls under the jurisdiction of Region 1, which encompasses California, Hawaii, Idaho, Nevada, Oregon, Washington, and the Pacific Islands. The Region 1 headquarters are located in Portland, Oregon; however, most correspondence between the County and the USFWS is conducted with the office in Ventura.

### Jurisdiction

- Any project that may jeopardize the continued existence of federally listed species.
- Any project that may adversely modify a federally listed species' critical habitat.
- Any project that crosses lands owned or managed by the USFWS.

### Authorizing Acts

*The Migratory Bird Treaty Act of 1918:* Implements treaties between the United States and other nations that specify certain migratory bird species with protected status. The act prohibits taking of these species and authorizes the USFWS to establish regulations on hunting and management of protected species.

*Marine Mammal Protection Act of 1972:* Places an ongoing prohibition on taking or importing any marine mammal or product. Taking in any form is prohibited, even unintentional takings. The act provided for exceptions for scientific research, public display, and species enhancement, and has provisions for a permit for incidental take under these conditions. This act is jointly implemented by the USFWS and the National Marine Fisheries Service.

*Endangered Species Act of 1973, as amended in 1988:* Establishes procedures for listing species of plants and animals as threatened or endangered. The ESA further prohibits any federal agency from engaging in actions that place any listed species in jeopardy. An "action" is defined as any activity or program authorized, funded, or carried out by a federal agency. This act is jointly implemented by the NMFS and the USFWS.

*Fish and Wildlife Coordination Act:* This act and its later amendments establish procedures for coordination among federal agencies for the protection and mitigation of listed species during construction projects. The act directs that agencies will coordinate their efforts while meeting the requirements of the federal Endangered Species Act (ESA), California Endangered Species Act (CESA), and Clean Water Act.

### Permits and Certificates

Section 9 of the ESA prohibits "take" of any federally listed endangered or threatened species. The ESA establishes two different processes to authorize take on projects that have the potential to impact listed species. If a federal agency (e.g., the Corps or FEMA) permits or funds the project, the federal agency must, to ensure protection of the species, enter into consultation with the USFWS under Section 7 of the ESA. Projects that do not involve a federal agency, but still have the potential to impact federally listed species, must obtain an incidental take permit directly from the USFWS under Section 10 of the ESA.

#### *Section 7*

Section 7 of the ESA requires federal agencies to "further the purposes of the Endangered Species Act." Towards this end, federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. If a prospective permit applicant has reason to believe that a listed species may be present in the project area and could be affected by the project, the applicant can request that the federal agency consult with the USFWS on a proposed action. This process concludes with a written "Biological

Opinion" from USFWS detailing how the action affects listed species and critical habitat. The conclusion of this process may allow "incidental taking" through rendering of a final Biological Opinion from the USFWS in the approved federal permit.

### *Informal Consultation*

If a project is not likely to adversely affect a listed species or critical habitat, the federal agency may conclude the consultation process informally. Informal consultation is an optional process that includes all discussions, correspondence, etc. between the USFWS and the federal lead agency, designed to assist the federal agency in determining whether formal consultation is required. If during informal consultation it is determined by the federal agency, with the written concurrence of the USFWS, that the project is not likely to adversely affect listed species or critical habitat, the consultation process is terminated and no further action is necessary. Informal consultation can also be used to gather information early in a project's permitting process to determine:

- if listed species are likely to occur in the project area
- if the project will have an effect on listed species
- if changes can be made to the project to avoid having an effect on listed species

### *Formal Consultation*

Formal consultation with the USFWS is required if the agency's proposed action may adversely affect a federally listed species or critical habitat. The formal consultation process is initiated after the completion of a comprehensive Biological Assessment for projects defined by NEPA as major construction projects, or, for smaller projects, a habitat assessment describing the presence or absence of listed or proposed species or critical habitat. At the end of the formal consultation process, the USFWS issues a written Biological Opinion indicating whether the proposed action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat.

A "No Jeopardy" Biological Opinion is issued when a proposed action is not likely to jeopardize the continued existence of listed species or habitat but is likely to cause adverse effect. The Biological Opinion will include mitigation measures that must be implemented to avoid, minimize, and mitigate the potential for take resulting from the proposed action. These measures must become conditions of approval granted by the federal agency. The Biological Opinion will also include a provision for incidental take, if appropriate. If the project is subsequently modified such that it results in new effects on listed species or if the take limit is exceeded during project implementation, the federal agency must re-initiate the consultation process.

If the USFWS determines that a proposed project is likely to jeopardize the continued existence of a listed species or habitat (i.e., a "Jeopardy" Biological Opinion) they will suggest reasonable and prudent alternatives to the proposed project.

### *Section 10 Incidental Take Permit*

In the absence of a federal lead agency, the USFWS can issue an incidental take permit under Section 10 of the ESA. The application for a Section 10 permit must include a Habitat Conservation Plan (HCP) that specifies effects, describes mitigation measures and alternatives, and documents adequate funding for the establishment and long-term maintenance of the HCP area. To issue an incidental take permit under Section 10, the USFWS must prepare a Biological Opinion that finds a *net benefit* to the population of the listed species involved. In such cases, the USFWS may authorize the take of protected species if the take is incidental to an otherwise authorized and legal activity. The Section 10 process is typically significantly more involved than the Section 7 process, and HCPs can be time-consuming and costly to develop and implement. Because of this, most project proponents attempt to work through other federal permitting agencies and the Section 7 process.

### Processing Time

*Section 7 Consultation:* The USFWS has a self-imposed requirement to conclude the consultation process and return its Biological Opinion within 90 days of initiation by the federal agency. Up to 150 days is allowed if the federal agency and the applicant agree to an extension. There is no penalty to the USFWS and no "automatic approval" if the time requirement is not met.

*Section 7 Informal Consultation:* The USFWS can usually respond to the federal agency with their no-affect confirmation within 30 days.

*Section 10 Incidental Take Permit:* The approval of incidental take as part of a Habitat Conservation Plan takes between 3 and 10 months, depending on the level of analysis required.

### Enforcement

Under the Endangered Species Act (ESA), it is unlawful to "take" an individual of any species that is listed as threatened or endangered. Violators of the ESA may be assessed a civil penalty of not more than \$25,000 for each violation and a criminal penalty of up to \$100,000 and/or one year in jail. Violations of the Migratory Bird Treaty Act can result in fines of up to \$25,000 for each violation. It is also a violation of the ESA to allow into a stream any material or substance that may jeopardize the survival of protected aquatic plants and animals.

### Contact Information

U.S. Fish and Wildlife Service  
2493 Portola Road Suite B  
Ventura, CA 93003

(805) 644-1766  
[www.fws.gov](http://www.fws.gov)

## **G. National Marine Fisheries Service**

### Charter

The National Marine Fisheries Service (NMFS) is responsible for administering the programs of the National Oceanic and Atmospheric Administration (NOAA). These programs provide support for the management and conservation of domestic and international living marine resources. The NMFS is also responsible for monitoring the social and economic effects of fishing practices and fishery regulations.

### Background

The first organization that led to the development of the NMFS was founded in 1871 as the U.S. Commission of Fish and Fisheries. These early programs that led to the formation of the NMFS were organized within the Bureau of Commercial Fisheries in the Department of the Interior. President Nixon officially created the NMFS and the NOAA under the Reorganization Plan No.4 of July 9, 1970 (84 *Stat.* 2090), which moved the NMFS to its current position within the NOAA in the Department of Commerce. After the passage of the Endangered Species Act (ESA) in 1973, the U.S. Fish and Wildlife Service (USFWS) and the NMFS were given the responsibility of overseeing the protection of wildlife and plants found to be in serious jeopardy. Acting through the NMFS, the Secretary of Commerce, under consultation from the Secretary of the Interior, has the responsibility of protecting marine species, Pacific salmon, marine mammals, and commercial and marine fisheries. The Secretary of the Interior, through the USFWS, oversees the protection and conservation of all other forms of terrestrial and freshwater species, and plants.

The NMFS is organized into five regions within the United States. San Luis Obispo County falls under the jurisdiction of the Southwest Region, headquartered in Long Beach.

### Jurisdiction

- Any project that may jeopardize the continued existence of federally listed marine species or marine mammals.
- Any project that may adversely modify a federally listed marine species or marine mammal's critical habitat.

The primary species that NMFS regulates relevant to San Luis Obispo County's operations is southern steelhead.

## Authorizing Acts

*The Magnuson Fishery Conservation and Management Act:* Signed into law on April 13, 1976, the Fishery Conservation and Management Act (later renamed the Magnuson Fishery Conservation and Management Act) eight Regional Fishery Management Councils that work together with the NMFS to prepare fishery management plans (FMPs) for both commercial and recreational fisheries. It is the FMP regulations and the enforcement of this law that account for the largest segment of the NMFS's enforcement activity.

*Marine Mammal Protection Act of 1972:* Places an ongoing prohibition on taking or importing any marine mammal or product. Taking in any form is prohibited, even unintentional takings. The act provided for exceptions for scientific research, public display, species enhancement, and has provisions for a permit for incidental take under these conditions. This act is jointly implemented by the NMFS and the USFWS.

*Endangered Species Act of 1973, as amended in 1988:* Establishes procedures for listing species of plants and animals as threatened or endangered. The ESA further prohibits any federal agency from engaging in actions that place any listed species in jeopardy. An "action" is defined as any activity or program authorized, funded, or carried out by a federal agency. This act is jointly implemented by the NMFS and the USFWS.

*Fish and Wildlife Coordination Act:* This act and its later amendments establish procedures for coordination among federal agencies for the protection and mitigation of listed species during construction projects. The act also authorizes the NMFS to gather information on fisheries and to advise other agencies on environmental decisions that have an affect on living marine species, marine mammals, and their habitats. The act directs that agencies will coordinate their efforts while meeting the requirements of the federal Endangered Species Act (ESA), California Endangered Species Act (CESA), and Clean Water Act.

*The Federal Power Act (FPA):* The FPA states that hydropower project owners must obtain a license from the Federal Energy Regulatory Commission (FERC). The Act authorizes the NMFS to recommend hydropower license conditions necessary to protect and enhance anadromous fish and their habitats. The NMFS is also given the authority to issue mandatory fishway prescriptions under the FPA.

## Permits and Certificates

Section 9 of the ESA prohibits "take" of any federally listed endangered or threatened species.<sup>1</sup> The ESA establishes two different processes to authorize take on projects that have the potential to affect listed species. If a federal agency (e.g., the Corps or FEMA) permits or funds the project, the federal agency must, to ensure protection of the species, enter into consultation with the NMFS under Section 7 of the ESA. Projects that do not involve a federal agency, but still have the potential to affect federally listed species, must obtain an incidental take permit directly from the NMFS under Section 10 of the ESA.

## Section 7

Section 7 of the ESA requires federal agencies to "further the purposes of the Endangered Species Act." Towards this end, federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. If a prospective permit applicant has reason to believe that a listed species may be present in the project area and could be affected by the project, the applicant can request that the federal agency consult with the NMFS on a proposed action. This process concludes with a written "Biological Opinion" from NMFS detailing how the action affects listed species and critical habitat. The conclusion of this process may allow "incidental taking" through rendering of a final Biological Opinion from the NMFS in the approved federal permit.

### *Informal Consultation*

If a project is not likely to adversely affect a listed species or critical habitat, the federal agency may conclude the consultation process informally. Informal consultation is an optional process that includes all discussions and correspondence between the NMFS and the federal lead agency, designed to assist the federal agency in determining whether formal consultation is required. If during informal consultation it is determined by the federal agency, with the written concurrence of the NMFS, that the project is not likely to adversely affect listed species or critical habitat, the consultation process is terminated and no further action is necessary. Informal consultation can also be used to gather information early in a project's permitting process to determine:

- if listed species are likely to occur in the project area
- if the project will have an effect on listed species

### *Formal Consultation*

Formal consultation with the NMFS is required if the agency's proposed action may adversely affect a federally listed species or critical habitat. The formal consultation process is initiated after the completion of a comprehensive Biological Assessment for projects defined by NEPA as major construction projects, or, for smaller projects, a habitat assessment describing the presence or absence of listed or proposed species or critical habitat. At the end of the formal consultation process, the NMFS issues a written Biological Opinion indicating whether the proposed action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat.

A "No Jeopardy" Biological Opinion is issued when a proposed action is not likely to jeopardize the continued existence of listed species or habitat but is likely to cause adverse effect. The Biological Opinion will include mitigation measures that must be implemented to avoid, minimize, and mitigate the potential for take resulting from the proposed action. These measures must become conditions of approval granted by the federal agency. The Biological

Opinion will also include a provision for incidental take, if appropriate. If the project is subsequently modified such that it results in new effects on listed species or if the take limit is exceeded during project implementation, the federal agency must re-initiate the consultation process.

If the NMFS determines that a proposed project is likely to jeopardize the continued existence of a listed species or habitat (i.e., a "Jeopardy" Biological Opinion) they will suggest reasonable and prudent alternatives to the proposed project.

### *Section 10 Incidental Take Permit*

In the absence of a federal lead agency, the NMFS can issue an incidental take permit under Section 10 of the ESA. The application for a Section 10 permit must include a Habitat Conservation Plan (HCP) that specifies effects, describes mitigation measures and alternatives, and documents adequate funding for the establishment and long-term maintenance of the HCP area. To issue an incidental take permit under Section 10, the NMFS must prepare a Biological Opinion that finds a *net benefit* to the population of the listed species involved. In such cases, the NMFS may authorize the take of protected species if the take is incidental to an otherwise authorized and legal activity. The Section 10 process is typically significantly more involved than the Section 7 process, and HCPs can be time-consuming and costly to develop and implement. Because of this, most project proponents attempt to work through other federal permitting agencies and the Section 7 process.

### Processing Time

*Section 7 Consultation:* The NMFS has a self-imposed requirement to conclude the consultation process and return its Biological Opinion within 135 days of initiation by the federal agency. Longer periods are allowed if the federal agency and the applicant agree to a set extension time. There is no penalty to the NMFS and no "automatic approval" if the time requirement is not met.

*Section 7 Informal Consultation:* The NMFS can usually respond to a request for concurrence letter from a federal agency within 30 days.

*Section 10 Incidental Take Permit:* The approval of incidental take as part of a Habitat Conservation Plan can take 3 months to more than a year, depending on the level of analysis required.

### Enforcement

Under the Endangered Species Act (ESA), it is unlawful to "take" an individual of any species that is listed as threatened or endangered. Violators of the ESA may be assessed a civil penalty of not more than \$25,000 for each violation and a criminal penalty of up to \$100,000 and/or one year in jail.

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## **Appendix B**

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### Analysis of Permit Summary Reports

## Analysis of Permit Summary Reports

The purpose of this analysis is to identify repetition between conditions of approval and mitigation measures put forth by the County and other jurisdictional entities (e.g. CDFG, ACOE, RWQCB, Caltrans, USFWS, FHWA, NOAA Fisheries, NMFS, SWRCB). Following a review of approximately 25 permit summary reports from the County, some containing up to 80 conditions each, significant overlap of conditions was found between agencies. In many cases, the overlap illustrates the extent to which the County anticipates the policies and standards set forth by other regulatory agencies.

The second part of this appendix lists the 25 permits and the resources encountered for each.

Within each permit summary form, the County is most often cited as the source for the majority of conditions, along with significant overlap from other agencies. In many cases, the condition is required by other agencies, but is already required by the County with identical wording. For example, in the case of a condition that requires preconstruction surveys of the project site to identify sensitive plant and animal species for preservation and/or relocation, the source of the condition is often cited by more than one agency, and in some cases as many as five. The County, CDFG (the second most commonly cited agency), and USFWS frequently apply conditions with identical wording. In addition, between agencies, there are conditions that may be very similar in nature, but with different measures of stringency and specificity. For example, for one project, the ACOE requires:

*“The permittee shall not remove any woody debris from the creek or channel.”*

For another project, the County requires:

*“Large woody debris or trees within the stream channel or on the lower banks of the stream shall not be removed. If woody debris is causing erosion problems it may be relocated to another portion of the stream in consultation with a qualified biologist.”*

Another project includes the following CDFG requirement:

*“Large woody debris or trees within the stream channel or on the lower banks of the stream shall not be removed. Oversized materials, and large woody debris, separated during the extraction operation shall be placed in a location at or near the ordinary high water mark of the channel.”*

In this example, the wording differs across agencies, but the intent is the same for each. A second example of significant overlap with differing specificity is of a condition that requires preconstruction training sessions for all construction personnel. The stringency differs depending on the agency and the particular project. For one project, the County simply requires:

*“Prior to site disturbance, the County shall conduct a pre-construction training for crew members regarding special-status species and sensitive habitats.”*

For different projects, the County and CDFG require that the training be an on-site training session. For another project, the County requires:

*“Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries.”*

For yet another project, the County and CDFG require the following condition:

*“Before any construction activities begin on a project, a Service-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the California red-legged frog and its habitat, the importance of the California red-legged frog and its habitat, the general measures that are being implemented to conserve the California red-legged frog as they relate to the project, and the boundaries within which the project may be accomplished. Brochures, books and briefings may be used in the training session, provided that a qualified person is on hand to answer any questions.”*

Analysis of two other permit summary reports shows that the CDFG and USFWS both require the following two conditions, differing slightly in terms of stringency from project to project.

*“Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries. The training will also be provided within 30 days of the arrival of any new worker.”*

*“Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of CRLF, and their habitat, general provisions and protections afforded by the ESA, measures implemented to protect CRLF, and a review of the project boundaries. The biologist shall also familiarize construction personnel with other sensitive species potentially occurring at the project site.”*

There is also an instance where the County and CDFG lay out the requirements of the training session in very specific terms:

*“Prior to starting any activity within the stream, all workers shall have received training from the Operator's staff, or approved alternate trainer, on the contents of the CDFG*

*Agreement, the resources at stake, and the legal consequences of non-compliance. The program shall discuss sensitive species with potential to occur in the construction zone, with emphases on oak trees, wetland and riparian habitats, and roosting and nesting birds. The program shall explain the importance of minimizing disturbance and adhering to other disturbance minimizing measures.”*

We recommend the County formulate one uniform condition that each agency is content with, to minimize the amount of overlap and to ensure consistency across projects and across agencies.

An in-depth review of nine permit summary reports (See Appendix) reveals an average of more than 32% overlap, including the overlap between the County and other agencies, and the overlap between other agencies (excluding the County). One of the permit summary reports analyzed—the Old Creek Road at Willow Creek Culvert Repair Project—had more than 42% total overlap. The El Moro Bike Path Project had about 55% overlap between what the County requires, and what other agencies require.

It is estimated that an average of approximately one-third of all conditions overlap between agencies (total). The overlap between the County and other agencies is estimated at about 30%. While the overlap between other agencies (excluding the County) is estimated at about 3%, the in-depth review of nine permit summary reports showed a few projects that had from 5% to more than 8% overlap among other agencies, excluding the County. Please refer to the permit summary report examples, as seen in the Appendix, for more detailed ratios of overlap, specific to each project.

## **Repeated Conditions**

Some of the most common conditions found are paraphrased below:

- Prior to commencement of construction, the site shall be surveyed by a qualified/approved biologist to identify sensitive species.
- Before any construction activities begin on a project, a qualified/approved biologist shall conduct training sessions to familiarize all construction personnel with identification of sensitive species, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect these sensitive species, and a review of the project boundaries.
- Pre-construction surveys shall be conducted to identify sensitive plant species.
- Bullfrogs and exotic crayfish, as well as invasive exotic plant species, shall be permanently removed.
- Copies of the Agreement shall be provided on-site at all times.
- Construction shall occur during the typical dry season.
- The site shall be properly sign-posted and clearly marked in such a way that all personnel recognize and abide by a precise work area.
- Work shall not occur in the waterflow.
- Should archaeological resources be unearthed or discovered, the appropriate personnel shall be notified and construction shall cease until further notice.
- Qualified archaeologists and/or biologists shall be present to monitor relevant activities during construction.
- Erosion control measures shall be implemented and monitored on a daily basis.
- Air quality shall be maintained via specific dust control measures.
- Vegetation loss and disturbance shall be minimized to the maximum extent feasible.
- The site shall be returned to pre-existing conditions to the extent possible, including, but not limited to, re-contouring the stream bottom to its pre-existing grade and original contour, and implementing measures of revegetation and replacement with native species by way of specific ratios.
- The permittee shall photograph the work area before, during and after implementation of the proposed action.

## **Technical Analysis of Projects with Overlapping Conditions**

Each section hereafter is a technical discussion of overlap of conditions between agencies for ten different projects, including culvert repair and replacement, bridge repair and

replacement, flood mitigation, bank stabilization and repair, street enhancement and roadwork, and a bike path project. The conditions are categorized as: limits of the construction timeline, pre-construction, during construction, and post-construction – reflecting the organization of permit summary reports. As seen below, the County already requires a great deal of conditions similar to, or identical to, other agency standards. After several conditions, there is a brief discussion (in *italics*) of overlap for that particular condition that may not occur within the relevant project's conditions, but does occur across projects and across agencies. Following the technical discussion of overlapping conditions, there is a brief summary of the ratios of overlap between the County and other agencies, overlap between other agencies (excluding the County), and the total overlap.

(A330) Union Road at Dry Creek Box Culvert Replacement Project (date unknown)

*Pre-construction*

- Both the County and CDFG require a preconstruction survey by a biologist recognized by USWFS and CDFG, to identify the presence of San Joaquin kit fox. If the species is documented in an area likely to be impacted by the project, construction activities shall not begin until agreements addressing the kit fox have been reached between the County and the CDFG, the FHA, and the USFWS. Any such agreements shall be made available for public inspection in the Environmental Division of the County Department of Planning and Building.
- Both the County and CDFG require the construction area to be clearly marked in order to ensure the habitat is not unnecessarily disturbed.
- Both the County and RWQCB require that all construction work be conducted from the existing roadway to avoid inadvertent disturbance of existing riparian vegetation or damage to root systems.

*During Construction*

- Both the County and RWQCB require that all construction activities, including but not limited to, parking, fueling and maintenance of equipment, stockpiling of materials, location of office trailers, etc. shall remain within the marked construction area at all times.
- Both the CDFG and RWQCB require that debris, soil, silt, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.

- Both the CDFG and RWQCB require that during construction, the contractor shall not dump any litter or construction debris within the riparian/stream zone. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site. In addition, stockpiled materials shall not enter the creek. Appropriate setbacks must be maintained.

**37 total conditions**

*4/37 County overlap with agency*

*2/37 other agencies overlap with each other*

*6/37 total overlap*

Avila Flood Gate Replacement Project (August 26, 2003)

*Limits of construction timeline*

- Both the County and ACOE require that the permittee shall confine the proposed action to the period July 1 to October 15.
- Both the County and CDFG require: To avoid impacts to southern steelhead, construction shall be limited to the period of June 15 to October 15. The CDFG 1601 Lake and Streambed Alteration Agreement shall expire on December 31, 2005. If the Operator needs more time to complete the authorized activity, the work period may be extended on a day-to-day basis by Mr. Mike Hill, Associate Fishery Biologist, at (805) 489-7355, or, alternatively, to the Yountville office at (707) 944-5520.

*Pre-construction*

- Both the County and CDFG require: No heavy equipment shall operate in the live stream. An emergency response plan shall be prepared prior to the start of construction. The plan shall identify the actions which will be taken in the event of a spill of petroleum products, or other material harmful to aquatic or plant life, and the emergency response materials which will be kept at the site to allow the rapid containment and clean-up of any spilled material.
- Both the County and CDFG require: Preconstruction surveys consistent with protocol established by the USFWS shall be conducted to determine the presence of California red-legged frog, southwestern pond turtles, and tidewater goby. Any of these species that are found in the area prior to construction shall be relocated to a suitable area outside of the construction site by a qualified biologist with all required permits.

*Pre/During Construction*

- Both the County and CDFG require: During construction, a qualified biologist shall monitor construction activities including, but not limited to, installation and removal of diversion structures and sediment/erosion control devices. Biological monitor to monitor construction work and to inspect the installation and removal or diversion structures and erosion/sediment control devices if applicable.

*During Construction*

- Both the County and CDFG require: Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries.
- Both the County and ACOE require: The permittee shall not perform any work in flowing water or divert flowing water other than is necessary to isolate the workspace from water. If it becomes necessary to temporarily dewater the workspace, the permittee shall use only hand-placed sandbags as described in the ACOE permit application.

*[Overlap: please note this permit includes a requirement, in Pre-construction, from both the County and CDFG, that no heavy equipment shall operate in the live stream]*

- Both the County and ACOE require: The permittee shall employ all standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive erosion do not enter the creek during construction. This shall include the installation and maintenance of erosion control measures during the proposed action and afterwards if necessary to avoid input of material to the creek.

*[Overlap: please note the permit from the Avila Flood Gate Replacement Project includes a requirement, during construction, from both the CDFG and RWQCB, that debris, soil, silt, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately]*

- Both the County and ACOE require: The permittee shall ensure that all vehicle maintenance, staging, storage, and fueling occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner as to prevent runoff from entering waters of the United States.

- Both the County and CDFG require: Access for construction equipment and workers shall be confined to ruderal, mudflats, and open water areas immediately adjacent to and surrounding the existing floodgate. Avoid expanding the work area into adjacent vegetation. Clearly mark the boundaries of the proposed work area before and during construction using highly visible flagging or fencing. Advise all construction personnel to conduct work activities within the defined area only.

*[Overlap: please note that the permit from the Avila Flood Gate Replacement Project includes a requirement, during construction, from both the County and CDFG that the construction area be clearly marked in order to ensure the habitat is not unnecessarily disturbed. In addition, both the County and RWQCB require that all construction work be conducted from the existing roadway to avoid inadvertent disturbance of existing riparian vegetation or damage to root systems]*

*Post-construction*

- Both the County and ACOE require that before the first winter rains: The permittee shall ensure that no exposed soil (excluding the naturally occurring mudflat substrata) is left at any worksite and that all areas of soil exposed by the proposed action are revegetated with native vegetation no later than three months following completion of the proposed action and prior to the onset of the first winter rains.

**44 total conditions**

11/44 County overlap with agency

0/44 other agencies overlap with each other

11/44 total overlap

Creston/O'Donovan Road Bridge Repair Project (July 2, 2002)

*Pre-construction*

- Both the County and CDFG require: A qualified biologist should perform preconstruction surveys for California red-legged frog no more than two days prior to the start of repair activities.

*[Overlap: In addition to both the County and CDFG, the RWQCB, ACOE, and USFWS also have conditions related to a qualified and/or approved biologist's preconstruction surveys for particular plant and animal species]*

- Both the County and CDFG require: Prior to the start of construction, use highly visible flagging to clearly mark any trees located within the proposed construction zone, and ensure that impacts to trees are minimized.

*[Overlap: The RWQCB also has a similar condition. The County, CDFG, and ACOE have the following condition of Pre-construction: Prior to construction activities, the boundaries of the project areas shall be clearly delineated by flagging*

- or other means. All construction personnel shall be advised to conduct work activities within the defined work areas only in order to avoid unnecessary disturbance of the vegetation. Mark all environmentally sensitive areas. Vegetation removal shall not exceed the minimum necessary to gain access to the stream—Old Creek Road at Willow Creek Culvert Repair Project]*
- Both the County and CDFG require: If possible, conduct all construction and repair work during the typical dry season (mid-June to mid-October).
 

*[Overlap: In the Avila Flood Gate Replacement project, both the County and ACOE require that the permittee shall confine the proposed action to the period July 1 to October 15, while both the County and CDFG require: To avoid impacts to southern steelhead, construction shall be limited to the period of June 15 to October 15]*
  - Both the County and CDFG require: If needed, a biological monitor should be on-site to inspect the area prior to any work that may adversely affect CRLF. The monitor should inspect the installation and removal of diversion structures and erosion/sediment control devices.
 

*[Overlap: Both the County and ACOE require: A fisheries biologist with expertise in the areas of freshwater fisheries (particularly steelhead and tidewater goby) biology and ecology, fish/habitat relationships, biological monitoring and handling, collecting and relocating species shall be retained to monitor the installation and removal of any creek diversions and placement of the rip rap—Cambria Main Street Enhancement Project-Outfall*

*Both the County and USFWS require: The stream diversion and dewatering plan should be conducted under the direct and continuous supervision of a qualified biologist to ensure the proper form and function of the diversion. The diversion structure should be monitored daily by the work crews, and periodically by a qualified biologist—Higuera Bridge Retrofit Project*

*Both the County and RWQCB require: A qualified biological monitor shall conduct morning preactivity surveys, monitor construction activities that could directly impact sensitive wildlife, inspect stream diversion/dewatering and erosion/sediment control devices, and relocate wildlife from the work area if necessary—Noyes Road Bank Repair Project]*
  - Both the County and CDFG require: Ensure that bank stabilization design does not transfer the erosion force of the stream to another area downstream.
 

*[Overlap: Please note that the County, CDFG, and RWQCB have a more specific condition: Ensure that bank stabilization design does not transfer the erosion force of the stream to the opposite bank or another area downstream by ensuring that the restored stream gradient is consistent through the repair zone and that the stream cross section through the repair zone is no narrower than areas immediately upstream or downstream—Dover Canyon Road Bank Stabilization Project*

*Please also note that the RWQCB requires, in Post-construction, that the site shall be monitored after completion of the project and the subsequent rainy season to ensure that the new structure is not deflecting the flow of water to the opposite banks and causing more problems with erosion up or down stream. If the new project does cause such problems, the permittee shall contact the Regional Water Board staff overseeing this project. The permittees shall be responsible for creating and implementing plans for restoring and preventing further problems with erosion. These plans shall include a hydrologic and geomorphic assessment of the cause of the erosion, including factors besides the new bank protection structure. Restoration and prevention plans shall integrate the assessments findings so that the underlying cause of erosion is addressed—Dover Canyon Road Bank Stabilization Project]*

- Both the County and CDFG require: Avoid excessive noise-producing and/or tree removal activities associated with construction during nesting willow flycatcher and yellow warbler breeding seasons (mid-April through mid-August). If work will occur within the typical breeding seasons for these species, retain a qualified biologist to survey the immediate vicinity for nesting birds prior to implementation of proposed activities. If nesting activity is observed within the immediate vicinity, a CDFG biologist should be contacted prior to project commencement.

#### *During Construction*

- Both the County and CDFG require: If removal of tall trees is determined to be necessary at any time within the typical raptor breeding season of February 15 through September 15, a raptor nest survey should be conducted prior to scheduled tree removal. A qualified biologist should therefore, be retained to determine if identified trees are currently being used for nesting purposes. If a tree slated for removal is being used for nesting at the time of proposed construction, either avoid tree removal until after the nesting season, or consult with CDFG.
- Both the County and CDFG require: As much construction work as possible should be conducted from the existing roadway to avoid inadvertent disturbance to existing riparian vegetation or damage to associated root systems of trees.

*[Overlap: Both the County and RWQCB are a bit more stringent the condition requiring that: All construction work will be conducted from the existing roadway to avoid inadvertent disturbance of existing riparian vegetation or damage to root systems—(A330) Union Road at Dry Creek Box Culvert Replacement Project]*

- Both the County and CDFG require: Avoid expanding the work area into adjacent riparian communities. Clearly mark the boundaries of the proposed work area prior to, and during construction using highly visible flagging or fencing. Advise all construction personnel to conduct work activities within the defined work area only.

*[Overlap: The ACOE has a very similar condition requiring the permittee to: Clearly mark the boundaries of the proposed work area before and during construction*

*using highly visible flagging or fencing. Advise all construction personnel to conduct work activities within the defined area only.*

*The USFWS has a condition during Pre-construction for the Higuera Bridge Retrofit Project, that requires: The Area of Potential Effect (APE) will be clearly flagged or fenced so that the contractor is aware of the limits of allowable site access. Areas within the designated APE that do not require regular access will be clearly flagged as off-limit areas to avoid/discourage unnecessary damage to sensitive habitats within the APE]*

- Both the County and CDFG require: Equipment should be fueled and maintained in an appropriate staging area removed from the riparian corridor and appropriate measures should be taken to prevent, contain, and cleanup hazardous material spills.

*[Overlap: both the County and ACOE, in the Avila Flood Gate Replacement Project, require: the permittee shall ensure that all vehicle maintenance, staging, storage, and fueling occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner as to prevent runoff from entering waters of the United States.*

*The CDFG, in the Cambria Flood Mitigation Project (Bypass Channel Phase and Pressure Storm Drain Phase), requires: Staging/storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the stream's high water channel and associated riparian area. Stationary equipment such as motors, pumps, generators, compressors, and welders, located within the dry portion of the stream channel or adjacent to the stream shall be positioned over drip-pans. Vehicles and equipment shall be moved out of the normal high water area of the stream prior to refueling and lubricating.*

*The CDFG, in the Operations Center Utility Bridge & Waterline Project, requires: Staging, servicing and fueling of project materials, vehicles and equipment will use appropriate best management practices.*

*The RWQCB, in the (A330) Union Road at Dry Creek Box Culvert Replacement Project, requires: Cleaning and refueling equipment and vehicles will not take place where fuels can enter waterways.*

*[The County, ACOE, and USFWS require: The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary to achieve the project goal. Routes and boundaries shall be clearly demarcated, and these areas shall be outside of riparian and wetland areas. Where impacts occur in these staging areas and access routes, restoration shall occur as identified in the measures above—Higuera Bridge Retrofit Project*

*The County, RWQCB, and USFWS require: The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary to achieve the project goal. Access routes shall be clearly demarcated and should be outside of riparian and wetland areas whenever possible. There shall be no off-road traffic. Choose access routes and staging*

*areas that are least disruptive to the streambanks thereby avoiding erosion and sedimentation to the creek—Old Creek Road at Willow Creek Culvert Repair Project]*

- Both the County and CDFG require: No heavy equipment should enter flowing water.
- Both the County and CDFG require: Best management practices should be implemented to divert stream flow around the work area (isolate the workspace from flowing water) during construction to minimize the potential for downstream sedimentation.
- Both the County and CDFG require: Trimming or removing of riparian trees should be minimized. To the extent possible, cut vegetation to ground level, leaving root systems intact.
- Both the County and CDFG require: Minimize disturbance of streambed vegetation. Access could be directed into the work area via the staging area along the east bank and would assist in minimizing disturbance of the vegetated streambed.
- Both the County and CDFG require: Minimize the area affected by RSP and consider using vegetated RSP or other bio-engineered techniques.
- Both the County and CDFG require: Check and maintain erosion control measures on a daily basis throughout the duration of work activities. If necessary, erosion control measures should be adjusted as appropriate if the work area changes.
- Both the County and CDFG require: All areas of disturbed soil should be stabilized and revegetated. Appropriate temporary erosion and sediment control measures should be installed and maintained until revegetation of the disturbed area is considered successful.

*[Overlap: The County, CDFG, and RWQCB all require the permittee to: Restore all previously vegetated areas that are cleared during project activities through revegetation with appropriate indigenous native species. Disturbance of vegetation shall be kept to a minimum.*

*The CDFG, ACOE, and USFWS all require in Post-construction, that immediately upon completion of each repair project, all areas disturbed during construction shall be revegetated with native species local to the area and appropriate temporary erosion and sediment control measures shall be installed and maintained—Old Creek Road at Willow Creek Culvert Repair Project*

*The NMFS, in Post-construction of the Higuera Bridge Retrofit Project, required: The applicant shall revegetate soil exposed as a result of construction related activities using seed casting, hydroseeding, or live planting methods, no later than six months after the permit was issued. Only native plant species were to be used for revegetation]*

- Both the County and CDFG require: Remove all trash from the project area at the end of each day to avoid attracting wildlife to the work area.

*[Overlap: As seen below, the RWQCB and USFWS also have the same condition, but the RWQCB specifically mentions the removal of food scraps.*

*Both the County and the RWQCB require the applicant to: Remove all trash and food scraps from the work area at the end of each day to avoid attracting wildlife—Noyes Road Bank Repair Project*

*The County, CDFG, RWQCB, and the USFWS all require: During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas on a daily basis—Old Creek Road at Willow Creek Culvert Repair Project*

*The County, for the Penman Springs Road at Huer-Huero Creek Crossing Repair Project, requires: All food related trash items such as wrappers, cans, bottles, and food scraps generated during the construction phase shall be disposed of in closed containers only and shall be removed from the project site on a daily basis.*

*For the Cypress Mountain Drive Bridge Repair Project, the County, CDFG, and ACOE all require: The construction zone shall be kept free from litter on a daily basis. All trash that may attract predators will be properly contained, removed from the work site, and disposed of regularly. Upon completion of work, all trash and debris will be removed from work areas and from areas where such materials could be washed into the stream]*

*Post-construction*

- Both the County and CDFG require: Replant two willows for each willow removed.

**55 total conditions**

*19/55 County overlap with agency*

*0/55 other agencies overlap with each other*

*19/55 total overlap*

Cypress Mountain Drive Bridge Repair Project (September 10, 2007)

*Pre-construction*

- Both the County and CDFG require: Prior to starting any activity within the stream, all workers shall have received training from the Operator's staff, or approved alternate trainer, on the contents of the CDFG Agreement, the resources at stake, and the legal consequences of non-compliance. The program shall discuss sensitive species with potential to occur in the construction zone, with emphases on oak trees, wetland and riparian habitats, and roosting and nesting birds. The program shall explain the

importance of minimizing disturbance and adhering to other disturbance minimizing measures.

- Both the County and CDFG require: Identify the upstream and downstream limits of the required encroachment into the stream and any required vehicle access corridors. These work area limits shall be identified with brightly-colored flagging. These limits shall be identified prior to construction. Flagging shall be maintained in good repair for the duration of the Project. All areas within the unnamed tributary, but beyond the identified work area limits, shall be considered Environmentally Sensitive Areas (ESA) and shall not be disturbed.

The amount of construction-related disturbance shall be limited to the extent practicable. Storage, parking, and laydown areas shall be clearly marked. Except as needed for construction, equipment and vehicles shall be kept out of areas identified as wetlands and waters of the United States. Construction access to the seasonal stream shall be the least disturbing to the creek banks.

#### *Pre/During Construction*

- Both the ACOE and RWQCB require: A change in the project design, materials, or construction methods, must be approved by the Corps and Regional Water Quality Control Board in writing.

#### *During Construction*

- The County, ACOE, and CDFG all require: The construction zone shall be kept free from litter on a daily basis. All trash that may attract predators will be properly contained, removed from the work site, and disposed of regularly. Upon completion of work, all trash and debris will be removed from work areas and from areas where such materials could be washed into the stream.

#### *Post-construction*

- Both the County and ACOE require: Once the construction is complete, site mitigation will be accomplished by the planting of native vegetation within the 4,000 square feet immediately within the impacted area. Two years post construction a monitoring report will be submitted to the Corps demonstrating that the area has been successfully re-vegetated with plants native to California. The annual monitoring reports shall be submitted to the Corps by December 31, 2009. If re-vegetation is not deemed successful at the time of submission of the monitoring report, recommendations for improved vegetation establishment will be made by the County of San Luis Obispo Department of Public Works.

**56 total conditions**

4/56 County overlap with agency  
1/56 other agencies overlap with each other  
5/56 total overlap

Dover Canyon Road Bank Stabilization Project (August 7, 2003)

*Pre-construction*

- Both the County and RWQCB require: Construction and repair work should be constructed during periods of no flow during the dry season (typically April 15 to October 15).
- The County, CDFG, and RWQCB require: Ensure that bank stabilization design does not transfer the erosion force of the stream to the opposite bank or another area downstream by ensuring that the restored stream gradient is consistent through the repair zone and that the stream cross section through the repair zone is no narrower than areas immediately upstream or downstream.

*During Construction*

- Both the County and CDFG require: All construction work should be performed from the existing roadway to avoid unnecessary earth disturbance.
- Both the County and CDFG require: Minimize the area affected by riprap by using vegetated riprap or other bioengineered techniques.
- The County, RWQCB, and CDFG require: Install appropriate erosion control measures (i.e., silt fences, hay bales) along the base of the proposed work area and at the downstream end of the proposed construction zone and maintain erosion control mechanisms on a daily basis.
- The County, RWQCB, and CDFG require: Check and maintain erosion control measures on a daily basis throughout the duration of work activities. Erosion control measures should be re-installed appropriately as the proposed work area changes.
- Both the County and CDFG require: Fueling of construction equipment shall take place at least 100 feet beyond the project boundary and be conducted in such a manner so as to avoid fuel or other hazardous materials from reaching the creek or the adjacent riparian habitat. All project-related spills of hazardous materials shall be cleaned up immediately.
- Both the County and CDFG require: Equipment shall be fueled and maintained in an appropriate staging area removed from the drainage channel and appropriate measures shall be taken to report, prevent, contain and cleanup hazardous material spills.

- Both the County and CDFG require: On a daily basis, check and maintain all equipment and vehicles that would be operated within the identified work area to ensure proper operation and avoid potential leaks or spills.
- Both the County and CDFG require: No work will be conducted in or near any flowing water.

*Post-Construction*

- Both the County and CDFG require: All areas of disturbed soil shall be stabilized and revegetated. Appropriate temporary erosion and sediment control measures should be installed and maintained until revegetation of the disturbed area is considered successful.
- Both the County and CDFG require: Following project completion, all invasive exotic plant species should be removed from the immediate vicinity of the project site.
- The County, RWQCB, and CDFG require: Restore all previously vegetated areas that are cleared during project activities through revegetation with appropriate indigenous native species. Disturbance of vegetation shall be kept to a minimum.
- The County, RWQCB, and CDFG require: Ensure borrow areas are restored so that they drain properly and employ best management practices on the sloped to control erosion.

**42 total conditions**

*14/42 County overlap with agency*

*0/42 other agencies overlap with each other*

*14/42 total overlap*

El Camino Real at Carmel Road Left Turn Lane Project (November 8, 2007)

*During Construction*

- Both the County and Caltrans require: If necessary, tree removal or pruning may occur during the bird nesting season provided a qualified biologist verifies that no active nests are located within the project area.
- Both the County and Caltrans require: Spread of invasive species will be avoided by not exporting soil from the site and any imported fill will be specified to be weed free and clean of deleterious materials.

*Post-construction*

- Both the County and Caltrans require: Complete any necessary permanent erosion control measures and final cleanup prior to the rainy season after construction is complete. Soil stabilization techniques include hydro-seeding with a native seed mix to minimize any potential for other invasive species to become established.
- Both the County and Caltrans require: Provide tree mitigation planting at a ratio of 2 to 1 for each Monterey Pine tree removed and each oak tree impacted by project activities. No oak trees are proposed for removal.

## **6 total conditions**

*4/6 County overlap with agency*

*0/6 other agencies overlap with each other*

*4/6 total overlap*

### El Moro Bike Path Project (December 30, 2004)

#### *Pre-construction*

- Both the County and USFWS require: Prior to project commencement, the project proponent shall retain a qualified biologist to conduct a worker education seminar summarizing the life history and ecology of Morro shoulderband snail and California legless lizard. Agency regulations and protections pertaining to these species shall also be discussed. Consequences of knowingly violating such regulations shall be discussed. All workers to participate in the project shall complete the training and sign a log acknowledging completion of such training. No workers shall be allowed to work on the noted project until such time that they have completed the seminar and signed the completion log. This program must be either conducted or approved by a USFWS-approved biologist.
- Both the County and USFWS require: Prior to project commencement, the project site shall be clearly flagged or fenced so that the contractor is aware of the limits of allowable site access and disturbance. Areas within the designated project site that do not require regular access shall be clearly marked as off-limit areas to prevent unnecessary damage to sensitive species potentially occurring near the project site.
- Both the County and USFWS require: Immediately prior to commencement of ground disturbing activities (e.g., grading, surveying), the qualified biologist shall, within daylight hours, carefully survey each area to be disturbed for the presence of Morro shoulderband snail and California legless lizard. All ice plant to be removed shall be carefully removed by hand by the qualified monitor to avoid adverse impacts to sensitive species. All legless lizards found by the biological monitor during the noted survey effort shall be moved by the monitor to adjacent, similar habitats out of harms way.

The qualified monitor shall move all live snails found to adjacent, similar habitats out of harms way. The location of the living snail(s) shall be marked (e.g., with pinflags) by the qualified monitor. Project-related construction shall not be allowed within 25

feet of each marked location until such time that the monitor confirms that the snail(s) is no longer occupying the marked location and has moved from harms way.

*During Construction*

- Both the County and USFWS require: No Morro shoulderband snail habitat (coastal sage scrub and patches of associated iceplant) will be removed as a result of the development of the project. Construction will be confined to areas void of coastal sage scrub and iceplant associated with coastal sage scrub.
- Both the County and FHWA require: In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
  - a. Construction activities shall cease, and the Environmental Coordinator, Planning Department and Caltrans District 5 Local Assistance shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
  - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

*Post-construction*

- Both the County and USFWS require: Construct permanent signs within the action area to: educate the public about the Morro shoulderband snail and its habitat, to take precautions when using the trail, and the protections afforded to species protected by the Endangered Species Act. Not less than four signs, each no more than four square feet in size, shall be placed along the trail; the location and copy shall be reviewed and approved in advance by the Director of Planning and Building.

**11 total conditions**

*6/11 County overlap with agency*

*0/11 other agencies overlap with each other*

*6/11 total overlap*

Cambria Flood Mitigation Project – Bypass Channel Phase (September 5, 2007)

*Pre-construction*

- The CDFG, RWQCB, and USFWS all require: Preconstruction surveys shall be conducted to determine the presence of California red-legged frogs, two-striped garter snakes, and southwestern pond turtles. Any of these species that are found in the area prior to construction shall be relocated to a suitable area outside of the construction site by a qualified biologist with all required permits. Frog surveys shall be conducted only by Service-approved biologists less than 7 days prior to start of construction activities in the riparian zone.
- Both the CDFG and USFWS require: Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries. The training will also be provided within 30 days of the arrival of any new worker.

*During construction*

- Both the CDFG and USFWS require: During construction, a qualified biologist shall monitor all construction activities including, but not limited to, installation and removal of all diversion structures and sediment control devices. If California red-legged frogs are found to be present during construction, all construction activities within 50 feet in any direction of the frogs shall cease until the frogs can be moved by a qualified biologist with all required permits. Only California red-legged frogs that are at risk of injury or death by project activities may be moved.
- Both the CDFG and USFWS require: All trash shall be removed from the site daily to avoid attracting potential predators to the site. No pets shall be permitted to be at the site during construction. All food-related trash must be kept in closed containers and removed regularly from the project area.

*During/Post-construction*

- Both the County and USFWS require: Within 30 days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of noninvasive or vegetative measures, including those described in USDA Soils Conservation Service Bulletin 347.

*Post-construction*

- Both the ACOE and NOAA Fisheries require: Inspect the flood basin after discharge in Santa Rosa Creek has increased sufficiently to “spill” into the basin for the purpose of

assessing presence of steelhead. This inspection shall be performed no later than 24 hours following the discovery that the creek is no longer spilling into the basin.

- Both the ACOE and NOAA Fisheries require: Notify NOAA Fisheries if a steelhead is observed in the basin. Such notification shall be made to NOAA Fisheries within a reasonable period of time, but not later than 24 hours after the discovery of a steelhead.

### **77 total conditions**

*1/77 County overlap with agency*

*6/77 other agencies overlap with each other*

*7/77 total overlap*

### Old Creek Road at Willow Creek Culvert Repair Project (date unknown)

#### *Pre-construction*

- Both the County and USFWS require: At least 15 days prior to the onset of activities, the applicant or project proponent shall submit the name(s) and credentials of biologist(s) who would conduct activities specified in the following measures. No project activities shall begin until proponents have received written approval from the Service that the biologist(s) is qualified to conduct the work.
- The County, USFWS, and CDFG all require: A Service approved biologist shall survey the work site two weeks before the onset of activities. If California red-legged frogs, tadpoles, or eggs are found, the approved biologist shall contact the Service to determine if moving any of these life-stages is appropriate. In making this determination the Service shall consider if an appropriate relocation site exists. If the Service approves moving animals, the approved biologist shall be allowed sufficient time to move the CRLF from the work site before work activities begin. Only Service approved biologists shall participate in activities associated with the capture, handling, and monitoring of the CRLF. Bullfrogs, centrarchid fishes and exotic crayfish observed during this survey and throughout the time of the project shall be removed by the biologist according to the California Fish and Game Code. Additionally, the results of the survey should be sent to the CDFG (1600 Program, Notification Number R3-0735-99, P.O. Box 47, Yountville, CA 94599).
- The County, USFWS, and CDFG all require: Before any construction activities begin on the project, a Service approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the CRLF and its habitat, the importance of the CRLF and its habitat, the general measures that are being implemented to conserve the CRLF as they relate to the project, and the boundaries within which the project may be accomplished.

- The County, ACOE, and CDFG all require: Prior to construction activities, the boundaries of the project areas shall be clearly delineated by flagging or other means. All construction personnel shall be advised to conduct work activities within the defined work areas only in order to avoid unnecessary disturbance of the vegetation. Mark all environmentally sensitive areas. Vegetation removal shall not exceed the minimum necessary to gain access to the stream.
- Both the County and CDFG require: Prior to construction commencement, flag all trees located in the general vicinity of the work area with highly visible flagging. All construction personnel shall be instructed to avoid disturbing the identified trees, and their associated roots and branches, to the extent feasible.
- Both the USFWS and RWQCB require: Prior to start of the project, design and submit a plan to the Corps describing a response to any accidental spills. In case of an accidental discharge or emergency affecting waters of the State, the applicant will file a report with the Office of Emergency Services and inform the staff of applicable Regional Board within 24 hours.
- Both the County and RWQCB require: Create measures that will be implemented to protect water quality in the event that the stream diversion becomes breached during the concrete curing process. The Basin Plan stipulates that pH value not to be raised above 8.3 or below 6.5. Waters entering the creek shall be pH tested. Define washout protocol for concrete trucks to avoid concrete inadvertently being washed into the stream. Inform truck drivers and the pump truck drivers of their responsibilities.

#### *During Construction*

- The County, ACOE, and RWQCB all require: Conduct all construction activities during the typical low rainfall period and after stream flow has receded substantially. Install appropriate erosion control measures (silt fences, hay bales) along the base of the proposed work area and at the downstream end of the proposed construction zone and maintain erosion control mechanisms on a daily basis.
- Both the County and CDFG require: A silt catchment basin shall be installed. No silt bearing water shall enter the live stream. If the excavation site must be de-watered during construction, any muddy or otherwise contaminated water shall be pumped to a settling pond located outside the stream channel or to a stable upland site where the water can clear prior to re-entering the stream.
- Both the County and CDFG require: Trim in advance any branches likely to be damaged during construction related activities with appropriate hand-held equipment. No bulldozer/backhoe type equipment shall be used to remove vegetation. Trees over four (4) inches diameter at breast height (dbh) that must be removed from the project site shall be clearly marked with highly visible flagging. Only trees marked with this flagging shall be removed from the project site.

- The County, USFWS, and RWQCB all require: The number of access routes, number and size of staging areas, and the total area of the activity shall be limited to the minimum necessary to achieve the project goal. Access routes shall be clearly demarcated and should be outside of riparian and wetland areas whenever possible. There shall be no off-road traffic. Choose access routes and staging areas that are least disruptive to the streambanks thereby avoiding erosion and sedimentation to the creek.
- Both the County and CDFG require: Herbaceous and small shrubby vegetation within the clearly demarcated project boundaries that would be disturbed by subsequent project activity shall be removed by hand prior to use of the site by heavy equipment or other major construction activities in order to reduce the effect on CRLF and encourage their exodus.
- The ACOE, RWQCB, and CDFG all require: No equipment shall enter the flowing water.
- The County, ACOE, USFWS, RWQCB, and CDFG all require: Staging, storage, fueling, and maintenance of equipment and materials shall be located outside of the Corps' jurisdiction or 200 feet from any riparian habitat or water body. Discuss with workers the importance of preventing spills and of the appropriate measures that should be taken if a spill were to occur. Stationary equipment such as motors, pumps, generators, compressors, and welders, located within the dry portion of the stream channel or adjacent to the stream shall be positioned over drip-pans.
- The County, RWQCB, and CDFG all require: If feasible, use quick-set concrete to reduce time needed to pump water. If possible, line culvert with plastic while concrete cures so that stream flow can be released sooner. This plastic sheeting needs to be inspected and maintained on a daily basis. Do not use diesel, grease or any other petroleum based substance on concrete forms.
- The County, ACOE, and RWQCB all require: All necessary precautions shall be taken to avoid contact of wet cement with flowing water. Ensure that curing concrete does not come into contact with water of the State. If sheeting is used to cover the curing concrete as proposed, continuous monitoring of the site will be necessary.
- Both the ACOE and CDFG require: Silt fencing and straw bales shall be placed immediately downstream of the area in which construction activities are occurring for the purpose of trapping any sedimentation released from the construction area.
- Both the County and ACOE require: All water pumped from the construction area shall be discharged at a low rate or onto a dissipating structure (i.e. straw bales).
- The County, USFWS, and CDFG all require: A service approved biologist shall be present at the work site until such as all removal of CRLF, instruction of workers, and habitat disturbance have been completed. After this time, the contractor or permittee shall designate a qualified biologist to monitor on-site compliance with all mitigation measures. The service approved biologist shall ensure that this individual receives training on CRLF. The monitor and the biologist shall have the authority to halt any

action that might result in impacts that exceed the levels anticipated by the Corps and Service during review of the proposed action. If work is stopped, the Corps and Service shall be notified immediately by the biologist or on-site monitor.

- The County, USFWS, RWQCB, and CDFG all require: During project activities, all trash that may attract predators shall be properly contained and removed from the work site and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas on a daily basis.
- The County, USFWS, and CDFG all require: A service-approved biologist shall ensure that the spread or introduction of invasive exotic plant species shall be avoided to the maximum extent possible. When feasible, exotic species shall be removed from the site. Heavy equipment and other machinery shall be inspected for undesirable species and cleaned when necessary. Any fill material hauled to the site shall be free of exotic species, and the source of the material shall be inspected by a County-approved biologist.
- The County, USFWS, and CDFG all require: If a work site is to be temporarily dewatered by pumping, intakes shall be completely screened with wire mesh not larger than five millimeters to prevent CRLF from entering the pump system. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction. Upon completion of construction activities, any barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate.
- Both the RWQCB and CDFG require: No debris, soil, silt, sand, cement, concrete, or washing thereof, or other construction-related materials, equipment or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. Any of these placed within or where they may enter a stream or lake, shall be removed immediately. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State. Spoil sites shall not be located within the stream channel, where spoil may be washed back into the stream, or where it will cover wetland or riparian vegetation.
- Both the CDFG and RWQCB require: Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions shall be restored to as close to their original conditions as possible.
- Both the County and CDFG require: Avoid excessive noise-producing and/or tree removal activities associated with construction during nesting willow flycatcher breeding seasons (mid-April through mid-August). If work will occur within the typical breeding season for this species, retain a qualified biologist to survey the immediate vicinity for nesting birds prior to work. If nesting activity is observed within the immediate vicinity, construction shall be delayed until the qualified biologist determines that the young have fledged.

*Post-construction*

- The ACOE, USWFS, and CDFG all require: Immediately upon completion of each repair project, all areas disturbed during construction shall be revegetated with native species local to the area and appropriate temporary erosion and sediment control measures shall be installed and maintained.
- Both the County and CDFG require: Restoration shall include the revegetation of stripped or exposed areas with native vegetation. Rock, rip rap, or other erosion protection shall be placed in areas where vegetation cannot reasonable be expected to become reestablished.
- Both the County and USFWS require: Stream contours shall be returned to their original condition at the end of project activities, unless consultation with the Service has determined that it is not beneficial to the species or feasible.
- Both the County and CDFG require: Replace any tree inadvertently damaged by heavy equipment or removed during proposed repair work activities at a ratio of not less than 3:1.
- Both the County and CDFG require: Replace all willows damaged during proposed work activities at a ratio of not less than 3:1.
- Both the County and CDFG require: Following project completion, remove invasive exotic plant species from the immediate vicinity of the project site. Any Vinca, Cape or German ivy, Castor bean, Arundo, or other exotic plant species shall be bagged and appropriately disposed of in a landfill. Exotic species shall not be used in composting or left otherwise exposed in or around the project site.

**73 total conditions**

*25/73 County overlap with agency*

*6/73 other agencies overlap with each other*

*31/73 total overlap*

## Analysis of 25 Projects: Relevant Resources Encountered by Project Type

\* indicates technical overlap analysis included in appendix of RPP

### Culvert Projects

#### **\*Union Road at Dry Creek Box Culvert Replacement Project** (permit date unknown)

- Stream, riparian vegetation
- Reduce impacts to biological resources, e.g. San Joaquin kit fox
- Tree protection
- Adjacent agricultural operators
- Potential archaeological resources

#### **\*Old Creek Road at Willow Creek Culvert Repair Project** (permit date unknown)

- Stream/riparian corridor, native riparian wetland and upland vegetation
- California red-legged frogs, tadpoles, or eggs
- Bullfrogs, centrarchid fishes and exotic crayfish
- SLO serpentine dudleya and other sensitive plants
- Herbaceous and small shrubby vegetation
- Potential archaeological artifacts

### Flood-Related Projects

#### **\*Avila Flood Gate Replacement Project** (August 26, 2003)

- Stream
- Southern steelhead
- Potential California red-legged frogs (CRLF), southwestern pond turtles and tidewater goby
- Bullfrogs and exotic crayfish
- Potential threatened or endangered species
- Potential sensitive plant species
- Herbaceous and small shrubby vegetation

#### **\*Cambria Flood Mitigation Project – Bypass Channel Phase** (September 5, 2007)

- Santa Rosa Creek, riparian habitat
- Flood basin
- Provisions for the future construction of recreational trails
- California red-legged frogs (CRLF), two-striped garter snakes, southwestern pond turtles, steelhead
- Potential nesting birds, raptor and non-raptor species, migratory birds, eggs, fledglings
- Potential sensitive plants
- Tree removal and replacement, mature Monterey pine, eucalyptus trees, and other trees
- Arroyo Willow series vegetation losses
- Revegetation, replacement of any seasonal wetlands
- Herbaceous and small shrubby vegetation
- Bullfrogs and exotic crayfish
- Invasive exotic plant species
- Re-contour to blend with natural terrain
- Archaeological monitoring: overflow and bridge bypass area has potential for presence of buried or redeposited cultural resources
- California Annual Grassland areas

**Cambria Flood Mitigation Project – Pressure Storm Drain Phase (April 8, 2008)**

- Same as above

Well & Water Line Projects

**CSA 16 Shandon Loop Heights Water Line Project (October 20, 2004)**

- San Joaquin Kit fox

**Lopez Recreation Area Water Well Project (permit date unknown)**

- Lopez Lake
- Root systems of trees
- Borrow areas
- Erosion control
- Avoid project-related spills, fuel or other hazardous materials

- Dust control
- Revegetation with appropriate indigenous native species
- Exposed ground areas
- Potential archaeological resources

#### Bank Stabilization & Repair Projects

##### **\*Dover Canyon Road Bank Stabilization Project (August 7, 2003)**

- Riparian/stream zone, wetland area
- Erosion control
- Dust control
- Minimize the area affected by rip-rap by using vegetated rip-rap or other bio-engineered techniques
- Potential archaeological resources
- Invasive exotic plant species
- Willow removal and replacement
- Revegetation
- Reconfigure channel to original state

##### **Ocean Avenue Bank Stabilization Project (May 21, 2003)**

- Stream zone, wetland area
- California red-legged frogs (CRLF), steelhead, tidewater goby
- Potential archaeological resources
- Temporary sediment controls
- All affected areas to be returned to pre-project conditions

##### **Noyes Road Bank Repair Project (May 5, 2005)**

- Noyes Road concrete channel
- Oak tree replacement
- Dust control
- Potential archaeological resources

#### Stream Restoration Projects

**Corbett Canyon Stream Restoration Project (June 8, 2004)**

- Creek channel
- Restoration crews shall prune the multi-trunked trees along the creek channel to create a single-trunked growth habit, following SLOWMP guidelines. Stump-sprouting willows along the roadside shall also be pruned to form a single-trunked habit and to grow in a way that avoids obstructions to overhead utility lines.
- Potential sensitive species, e.g. California red-legged frogs (CRLF)
- Bird nesting activities
- Adjacent vegetation
- Exotic plant species to be removed by hand
- Act appropriately to prevent, contain, and clean up hazardous material spills
- Erosion control
- Revegetation
- Potential archaeological resources

Bridge Repair & Replacement Projects

**\*Creston/O'Donovan Road Bridge Repair Project (July 2, 2002)**

- Riparian/stream zone, vegetation
- Potential sensitive species, e.g. California red-legged frogs (CRLF)
- Trees (and root systems) located within the construction zone
- Avoid excessive noise-producing and/or tree removal activities associated with construction during nesting willow flycatcher and yellow warbler breeding seasons
- The applicant should investigate whether the low-lying willow branches upstream of the bridge are constricting the channel and altering flow
- Water diversion
- Tall trees, potential raptor nests
- Prevent, contain, and cleanup hazardous material spills
- Dust control
- Potential archaeological resources
- Environmentally sensitive areas
- Coast Live Oak, Cottonwood trees, and willows
- Revegetation

- Borrow areas
- Erosion control
- Return channel to original configuration

**\*Cypress Mountain Drive Bridge Repair Project (September 10, 2007)**

- Las Tablas Creek, riparian/stream zone, riparian vegetation
- Native trees, shrubs, herbs and grasses
- Potential State- or Federal-listed Threatened or Endangered species
- Environmentally sensitive areas: nest trees, potential nesting birds, raptors
- Nesting swallows
- Bats (potentially roosting)
- Avoid disturbing night roosting bats and birds that could be affected by nighttime illumination or noise
- Water diversion
- Potential cultural or archaeological resources
- Erosion control
- Revegetation
- Stream's low-flow channel, bed or banks returned to original configuration as much as possible
- Remove and recontour slopes and stream bottom to the original contour

**Higuera Bridge Retrofit Project (June 2, 2003)**

- Creek/riparian corridor, wetland areas
- Southern steelhead
- Potential sensitive plant species (blooming season)
- Potential rare bird species (breeding/nesting), e.g. passerine
- Willows (pruning)
- Nests of cliff swallow and black phoebe
- Potential California red-legged frogs (CRLF), tadpoles, eggs, southwestern pond turtles, and two-striped garter snakes
- Preventing spills; take appropriate measures should a spill occur
- Herbaceous and small shrubby vegetation

- Sediment and turbidity control; erosion control
- Water diversion
- Non-native predators of the California red-legged frog (CRLF), including bullfrogs and exotic crayfish
- Avoid spread or introduction of, and remove invasive exotic plant species
- Night-roosting pallid bats
- Large woody debris and trees within the stream channel and on the lower banks
- Invasive exotic plant species to be removed
- Stream bottom to be returned to pre-existing grade; return stream contours to original condition
- Revegetation

**Operations Center Utility Bridge & Waterline Project (April 5, 2007)**

- Potential special-status species
- Southern steelhead
- Erosion control
- Revegetation

**Picachio Road Bridge Replacement Project (February 23, 2007)**

- Cayucos Creek channel, riparian vegetation, wetlands/streambed habitat
- Native rock (match rip-rap boulders)
- Demolition; removal and disposal of asbestos-containing material
- Water diversion
- Erosion control
- Eucalyptus trees, potential monarchs
- Potential California red-legged frog (CRLF), southwestern pond turtles, coast range newt; tidewater goby, steelhead, other fish
- Breeding/roosting bats
- Prevention of spills and immediate clean-up of hazardous materials
- Dust control
- Avoid spread or introduction of, and remove invasive exotic plant species
- Willow stakes/poles to maintain riparian canopy over the creek

- Return habitat contours to original configuration
- Potential archaeological resources
- Revegetation

#### Road Work Projects

##### **\*El Camino Real at Carmel Road Left Turn Lane Project (November 8, 2007)**

- Bird nesting
- Tree pruning, removal
- Oak trees to be protected
- Sediment and erosion control
- Avoid spread of invasive species
- Monterey Pine tree replacement

##### **Cambria Main Street Enhancement Project-Outfall (September 20, 2004)**

- Drainage outfall work
- Santa Rosa Creek channel, riparian/stream zone
- Potential California red-legged frog (CRLF) and taxon
- Steelhead
- Herbaceous and small shrubby vegetation
- Water diversion
- Revegetation
- Removal of bullfrogs and exotic crayfish
- Erosion control
- Willow tree replacement
- Removal of invasive exotic plant species
- Return stream flow to its natural channel
- Potential archaeological resources

##### **Bridge Street Repair Project (June 25, 2007)**

- Stream, riparian and wetland vegetation
- Erosion control

- Nesting birds
- Tree protection
- Potential California red-legged frog (CRLF), special-status species and sensitive habitats
- Dust control
- Recontour stream bottom, low-flow channel, bed and banks to original contour
- Mitigate woody-stemmed plants/trees
- Revegetation
- Monterey pine and oak tree replacement

**Gracia Street Paving and Storm Drain Project (August 6, 2001)**

- Dust control
- Potential archaeological resources

**Mill Road at Dry Creek Crossing Repair (October 16, 2002)**

- Western spadefoot toads, tadpoles (none found)
- Potential for sensitive species
- Small mammal burrows
- San Joaquin kit fox
- Prevention of spills and immediate clean-up of hazardous materials
- Dust control
- Potential archaeological resources
- Soil stabilization
- Revegetation

**Nacimiento Lake Drive Widening Project (December 10, 2003)**

- Sensitive resources, e.g. oak and willow trees
- Tree protection, limited tree removal
- Specified time for tree and shrub trimming, reduce impact on nesting birds
- Erosion control
- Dust control
- Control storm water runoff (pollution prevention)

- Prevention of spills and immediate clean-up of hazardous materials
- Potential archaeological resources
- Soil stabilization
- Revegetation
- Oak tree replacement
- Weed removal and prevention

**Old Creek Road at Cottontail Creek Road Repair Project (November 28, 2006)**

- San Luis Creek / San Luis Obispo Creek, riparian vegetation
- Potential native reptiles and amphibians, southwestern pond turtles, California red-legged frogs (CRLF), two striped garter snake, southern steelhead trout, raptors, swallows, special-status bat species
- Features to enhance bat habitat under the San Luis Bay Drive Bridge shall be incorporated into the design of the bridge, to the maximum extent feasible. Appropriate habitat enhancement features could include the incorporation of features and/or the installation of bat boxes underneath the bridge to enhance bat night, day and nursery roosting habitat.
- Specified time for tree and shrub trimming, reduce impact on bird species: nests, eggs, nestlings, and adults
- Sensitive habitats and species
- Large woody debris or trees within the stream channel or on the lower banks
- Tree removal & protection, e.g. oak trees
- Water diversion
- Erosion control
- Herbaceous and small shrubby vegetation
- Recontour low-flow channel of streambed as nearly as possible to its natural preconstruction condition without creating a wide flat channel, sluice-like area, or possible future bank erosion problems
- Removal of invasive exotic plant species
- Soil stabilization

**Penman Springs Road at Huer-Huero Creek Crossing Repair Project (October 4, 2002)**

- Stream channel
- Potential sensitive species , e.g. western spadefoot toads, tadpoles

- San Joaquin kit fox
- Small mammal burrows
- Prevention of spills and immediate clean-up of hazardous materials
- Dust control
- Potential archaeological resources
- Erosion and sediment control

#### Bike Path Projects

##### **\*El Moro Bike Path Project** (December 30, 2004)

- Sensitive species, e.g. Morro shoulderband snail and California legless lizard
- Protection of Morro shoulderband snail habitat (coastal sage scrub and patches of associated iceplant)
- Potential archaeological resources
- Erosion control
- Revegetation





	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	PRE At least 15 days prior to the onset of activities, the applicant or project proponent shall submit the name(s) and credentials of biologists who would conduct activities specified in the following measures. No project activities shall begin until proponents have received written approval from the Service that the biologist(s) is qualified to conduct the work.					Identical to County Condition  At least 30 days prior to the onset of activities, the County must submit the name(s) and credentials of any other biologists they wish to have survey for, capture, and relocate California red-legged frog to us for our review and approval.						
			PRE Contact Regional Board staff when project begins to allow for visit to project site (Amanda Schmidt – 549-3896).									
		PRE/DURING This Agreement does not authorize the Operator, or the Operator's agents to access the site without the permission of the landowner where such permission is needed.		PRE Five days prior to initiation of construction, the permittee shall notify the Corps in writing indicating the actual start and end dates of construction, and must provide written certification to the Corps that the permittee and any project managers have read the permit and will comply with all special conditions placed on the particular project, as well as pertinent general conditions of the Nationwide Permit Program.  PRE Prior to initiation of construction, the County shall notify the Corps of Engineers and the U.S. Fish and Wildlife Service in writing of the intended project initiation date and anticipated duration of the construction period.								
				PRE The permittee shall comply with the Section 401 water quality certification issued by the RWQCB dated July 24th, 2000. Prior to initiation of construction, the permittee shall forward a copy of the proposed mitigation plan required by condition C in the water quality certification for review and approval by the Corps.  PRE/DURING/POST Water Board staff must be notified if mitigations as described in the 401 Water Quality Certification application for this project are altered by the imposition of subsequent permit conditions by any local, state or federal regulatory authority. The County shall notify Water Board staff of any modifications that interfere with compliance with this certification.  PRE/DURING/POST Specific mitigation shall be the first								
	DURING The service approved biologist shall be notified immediately if a CRLF is observed inside or within 200 feet of the project area. No individuals except the authorized biologist shall handle any CRLF.  Upon locating dead or injured CRLF, initial notification must be made in writing to the Service's Division of Law Enforcement in Torrance, California (370 Amapola Avenue, Suite 114, Torrance, California 90501) and by telephone and writing to the Ventura Fish and Wildlife Office in Ventura, California (2493 Portola Road, Suite B, Ventura, California 93003, (805) 644-1766) within three working days of its finding. The report shall include the date, time, location of the carcass, a photograph, cause of death (if known) and any other pertinent information.					DURING If more than two (2) California red-legged frogs are found dead or injured during implementation of the project, regardless of cause, FHWA or the County must contact our office immediately so we can review the project activities to determine if additional protective measures are needed. Project activities may continue during this review period, provided that all protective measures proposed by the County and the terms and conditions of this biological opinion have been and continue to be implemented.  In addition to the measures included in the USFWS' programmatic BO for FHWA-funded projects						
										DURING Report to NOAA Fisheries the progress of the action and its impact on the species.		









	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION	
		<p>DURING Construction shall be confined to the period between April 15 and October 15 of 2003, 2004, and 2005. This agreement shall expire on December 31, 2005. The ACOE agreement expires on February 26, 2005</p> <p>PRE Work within the stream/riparian corridor shall be confined to the period of April 15 to October 15, 2002. Re-vegetation is not confined to this time period. This agreement shall expire on December 31, 2002. The work may be extended on a day to day basis by the local CDFG representative.</p>		Identical to CDFG Condition									
	<p>PRE To avoid impacts to southern steelhead, construction shall be limited to the period of June 15 to October 15. The Department of Fish &amp; Game 1601 Lake and Streambed Alteration Agreement shall expire on December 31, 2005. If the Operator needs more time to complete the authorized activity, the work period may be extended on a day-to-day basis by Mr. Mike Hill, Associate Fishery Biologist, at (805) 489-7355, or, alternatively, to the Yountville office at (707) 944-5520.</p>	Identical to County Condition											
		In-stream construction shall be limited to the period of June 15 to November 1.									Identical to CDFG Condition		
	Confine the proposed action to 15 June - 15 October	Identical to County Condition		Identical to County Condition									
	<p>DURING Construction and repair work will be conducted during periods of no or low flow in the stream</p>												
	<p>DURING Work activities shall be completed between April 1 and November 1. Should the proponent or applicant demonstrate a need to conduct activities outside this period, the Corps may authorize such activities after obtaining the Service's approval.</p>					Identical to County Condition					<p>DURING The applicant shall confine the construction activities occurring within the creek and riparian corridor to the period 1 July to 15 November 2003.</p>		
	<p>DURING Project construction should occur after higher spring flows have subsided to a point where efficient dewatering can be accomplished.</p>					Identical to County Condition							
			<p>DURING To the maximum extent possible, work shall occur when the creek is dry.</p> <p>To the maximum extent possible, work shall not occur during the rainy season. If it is unavoidable, temporary erosion/sedimentation control devices shall be used. Such devices include silt fencing, hay bales, jute matting, etc.</p>										
			<p>DURING To the maximum extent possible, construction shall occur when the channel is dry.</p>										
	<p>DURING Avoid excessive noise-producing and/or tree removal activities associated with construction during nesting willow flycatcher and yellow warbler breeding seasons (mid-April through mid-August). If work will occur within the typical breeding seasons for these species, retain a qualified biologist to survey the immediate vicinity for nesting birds prior to implementation of proposed activities. If nesting activity is observed within the immediate vicinity, a CDFG biologist should be contacted prior to project commencement.</p>	Identical to County Condition											
	<p>DURING During construction, work under the bridge structure shall not occur between the hours of 10 pm and sunrise to avoid impacting night-roosting pallid bats.</p>					Identical to County Condition					<p>DURING In order to avoid impacts to pallid bats, work shall not take place between the hours of 10 pm and sunrise. If bats are found to use the site as a day roost, a bat expert shall be consulted to insure that swallow exclusion devices also prevent roosting by bat species. Exclusionary netting shall be put in place when bats are not present.</p>		





	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION	
	<p>PRE</p> <p>Prior to construction, a Tree Replacement Plan shall be prepared for trees removed as part of the project. The tree replacement plan shall identify all trees to be removed by any phase or component of the project by size and species, and shall identify the species, location and size of tree for replacement. In particular, any trees removed from along the north side of Highway 1 shall be replaced to restore the visual screen for Highway 1. The tree replacement plan shall conform to Section 23.05.060 of the Coastal Zone Land Use Ordinance regarding tree removals.</p>												
	<p>PRE</p> <p>Prior to construction, submit landscape, irrigation and landscape maintenance plans in accordance with Section 23.04.180 through 23.04.186 of the Coastal Zone Land Use Ordinance, for review and approval to the Department of Planning and Building. Plans shall be prepared by a landscape professional and shall include location, species and container size of all proposed plan materials and method of irrigation. All proposed material shall be of a drought tolerant variety. The landscaping plan shall provide the following:</p> <p>a. Clearly identify trees to remain and trees to be removed</p> <p>b. Location, size, species of replacement trees</p> <p>c. Location, material and heights of all existing and proposed fencing</p> <p>d. The location of all trees existing within 50 feet of the area proposed for grading or other construction, that are eight inches or larger in diameter four feet above natural grade. Trees to be removed are to be identified.</p> <p>Planning Commission: Development Plan 0010211-1 - County of San Luis Obispo</p>												
						<p>POST</p> <p>Provide to USFWS four reports on the impacts of the project to California red-legged frogs. The reports must provide the results of biological surveys and sighting records, and also document the following: the number of California red-legged frogs relocated from the action area or killed or injured during the project; the dates and times of capture, mortality or injury; specific locations of capture, mortality or injury; approximate size and age of individuals; and a description of relocation sites. The report shall also contain a discussion of the problems encountered in implementing the terms and conditions and other protective measures, recommendations for providing the terms and</p>							
						<p>In addition to the measures included in the USFWS' programmatic BO for FHWA-funded projects (April 24, 2003), the County shall implement the following Reasonable and Prudent Measures and the associated Terms and Conditions, and other terms included in the USFWS BO for California red-legged frog:</p> <p>3. FHWA or Caltrans must provide a written report to the USFWS within 90 days following completion of the proposed project. The report must document the number and size of California red-legged frogs relocated from the action area, the date and time of relocation, and a description of relocation sites. The report must also</p>							

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			<p>POST Within 30 days of construction completion, submit a report that contains summary of daily activities, monitoring observations, problems incurred and actions taken; and post project photos identified.</p> <p>Photographs of any impacted wetland and water crossing areas shall be taken before and after project activities to document impacts, or a lack thereof. The applicant shall also take photographs of all compensatory mitigation areas, if applicable, one and three years (the exact length of time may be determined by the Regional Board staff) after completion of project activities. Copies of all photographs shall be properly identified and sent to the Regional Boards and the Corps.</p>	<p>Identical to County Condition</p> <p>PRE/DURING/POST Within 15 days of completion of the project, the permittee shall submit color photographs taken at the project prior to, during, and after construction to document compliance with the terms and conditions of this verification.</p> <p>POST Within 45 days of completion of the project, the County shall submit to the Corps of Engineers photographs taken at the project site during and after construction and one copy of the "as built" drawings if they should differ substantially from those proffered with the permit application.</p>							<p>POST The applicant shall provide a written monitoring report to NMFS within 15 working days following completion of the proposed action. The report shall include the number of steelhead killed or injured during the proposed action and biological monitoring; the number and size of steelhead removed and relocated; any effect of the proposed action on steelhead that was not previously considered (reinitiation of consultation would be required, see section IX (2) of the Biological Opinion); and, photographs taken during, before, and after work activity.</p>		
		<p>PRE Prior to site disturbance, a Habitat Mitigation Monitoring Plan (HMMP) shall be approved by the CDFG. The HMMP shall be implemented to compensate for the loss and/or disturbance of vegetation in the streambed and banks; areas cleared for access, and construction staging areas. The restoration plan elements will be graphically depicted on final construction plans, including the location and extent of the drip-line for all trees; type and location of any fencing; and equipment storage and staging areas outside of drip-line areas.</p>	<p>POST The Operator shall implement the "Habitat Mitigation and Monitoring Plan" (prepared by the Morro Group, and dated May 18, 2001) no later than December 1 of the year the project is completed. Annual monitoring reports shall be submitted to the Department for three (3) years thereafter. At the end of the three (3) year monitoring period, the Operator shall provide a written report to the Department describing the number and species of trees and other plants planted, the survival rate of the vegetation, and any remedial measures necessary. Restoration shall include the revegetation of stripped or exposed areas. Planting may be done after October 15 to take advantage of the winter rainy season but shall be completed no later than December 1.</p>										
										<p>POST The applicant shall provide a written report describing results of the revegetation task to NMFS within 15 working days following completion of revegetation. The report shall include a description of the locations planted or seeded, the area (ft<sup>2</sup>) revegetated, a plant palette, planting or seeding methods, proposed methods to monitor and maintain the revegetated area, performance or success criteria, and pre- and post-planting color photographs of the revegetated area.</p>			
										<p>POST The applicant shall provide a written report describing the results of the vegetation monitoring to NMFS within 15 working days following completion of the fall 2004, 2005, and 2006 site inspections [Permit dated June 2, 2003]. The report shall include the color photographs taken of the project area during each inspection and before and after implementation of the project, and estimated percent of exposed soil remaining within each area affected by the project.</p> <p>The applicant shall inspect the revegetated area.</p>			







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			<p>POST</p> <p>The site shall be monitored after completion of the project and the subsequent rainy season to ensure that the new structure is not causing problems with erosion up or down stream. If the new project does cause such problems, the applicant shall <u>contact the Regional Water Board</u> staff overseeing this project. The applicants shall be responsible for creating and implementing plans for restoring and preventing further problems with erosion. These <u>plans</u> shall include a hydrologic and/or geomorphic assessment to determine the cause of erosion. The new plan shall integrate the assessments findings so that the underlying cause of erosion is addressed.</p> <p>Monitor the site (at least one creek reach upstream and downstream) after completion of the project and annually for two subsequent rainy seasons to ensure that the new</p>									
		<p>DURING</p> <p>Conduct archaeological monitoring during the grading phases of the project. Monitoring should include an archaeological workshop for workers prior to construction and outline methods of treatment for any soil exported from the project areas of SLO-214 and SLO-2229.</p>										
		<p>DURING</p> <p>The overflow and bridge bypass area retains some potential for the presence of buried or redeposited cultural resources. For this reason, this part of the study area shall have intermittent archaeological monitoring during excavation and construction.</p> <p>The terrace and sloping hillside on the east side of the bypass basin area from Main Street to the detention basin located southeast of the bank did not have enough visibility for the archaeological survey. This area requires full archaeological monitoring during excavation of the basin.</p>										
		<p>PRE/DURING/POST</p> <p>Photos shall be taken before, during, and after construction to document work activities and compliance of mitigation measures. Photos will be sent to: Streambed Alteration Notification Number 1600-2003-0087-3 California Department of Fish and Game, Central Coast Region PO Box 47 Yountville, CA 94599</p>	Identical to County Condition									
		<p>POST</p> <p>Inspect the revegetated area in spring and fall for a period of no less than two years for the purposes of monitoring the performance of the planted or seeded area and the amount of exposed soil, and of determining whether additional revegetation is necessary</p>		Identical to County Condition								
		<p>PRE</p> <p>Removal of vegetation and existing nests shall be conducted in the presence of a qualified biologist during the fall and winter (between September 15 and February 15) after fledging and before the initiation of breeding activities. The timing of nest removal may differ due to variations in breeding activity.</p>										
		<p>DURING</p> <p>A qualified biologist shall ensure compliance with all regulatory permit conditions and to ensure that all practicable measures are employed to avoid incidental disturbance of aquatic habitats and disturbance to special-status species. Monitoring shall be at a frequency and duration determined during consultation with responsible agencies [e.g., National Marine Fisheries Service (NOAA Fisheries), USFWS, and CDFG]. The biologist shall be a liaison between state and federal agencies and the construction contractor regarding compliance with mitigation requirements.</p>										
		<p>DURING</p> <p>All significant, native vegetation adversely affected during site construction shall be inventoried by the qualified biologist, and the nature of impact characterized (e.g., removed, trimmed, root zone compacted, root zone excavated).</p>										
Survey site for species												

	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	PRE Within 60 days prior to the start of construction activities, the project site will be surveyed by staff of the Environmental Division of the County Department of Planning and Building. If any kit fox sign are noted (i.e., dens), the County will contract a biologist recognized by the U.S. Fish and Wildlife Service and the California Department of Fish and Game as a person having special expertise in the San Joaquin kit fox to formally survey the site for kit fox. If the species is documented in an area likely to be impacted by the project, construction activities shall not begin until agreements addressing the kit fox have been reached between the County of San Luis Obispo and the California Department of Fish and Game the Federal Highway Administration and the U.S. Fish and Wildlife Service. Any such agreements shall be made available for public inspection in the Environmental Division of the County Department of Planning and Building. (County Mit #BR-1, DF&G#3)	Identical to County Condition										
	PRE Prior to the initial disturbance of natural vegetation types within the project LOD, a qualified wildlife biologist shall survey the areas to be disturbed for the presence of sensitive wildlife. Trees and shrubs within the LOD that are scheduled to be trimmed or removed between February 1 and September 30 shall be carefully searched for nests prior to disturbance. The Migratory Bird Treaty Act protects active nests, eggs, nestlings, and adults on the nests of nearly all bird species. If an active nest is found, the bird shall be identified to species and the approximate distance from the closest work site to the nest shall be estimated. No additional measures shall be implemented if active nests are more than the following distances from the nearest work site: (a) 100 yards for raptors; or (b) 25 yards for other bird species. If active nests are closer than those distances to the nearest work site, a plan to monitor the behavior of the nesting birds during construction shall be prepared and submitted to CDFG for review and approval.	Identical to County Condition										
	PRE A County approved biologist shall survey the area the night before and the morning of work activity to ensure no sensitive species are within the project site. The county approved biologist shall monitor work activity to ensure no sensitive species are killed or harmed. If any individuals are sighted, within four (4) hours the biologist shall contact the Department of Fish and Game staff biologist Bob Stafford at (805) 528-8670 for consultation on further avoidance measures. ACOE: The surveys shall focus on the following species: CRLF, steelhead, tidewater goby. If any listed species are observed, the biological monitor shall immediately contact the Corps. Work shall not be initiated until the Corps has completed the appropriate level of consultation pursuant to section 7 of the federal Endangered Species Act.	Identical to County Condition		Identical to County Condition		PRE Prior to the onset of earthmoving or vegetation clearing activities, a biologist authorized to survey for the California red-legged frog would conduct one daytime and one nocturnal survey fro the taxon. An additional daytime survey would be conducted within the project footprint on the morning construction activities begin. Any CRLF found in the project area prior to construction would be relocated to a suitable area outside of the construction site by a biologist authorized by the Service to conduct such activities. If CRLF are found to be present during construction, all construction activities would cease until the frogs can be moved by a						
		PRE Prior to any project-related site disturbance, focused botanical surveys will be conducted for those sensitive plant species noted in Section V.B. of the NES. Surveys will be conducted by a qualified biologist/botanist during the respective flowering periods for the species noted. If any of these species are observed within the project APE, county staff will be notified immediately to determine the appropriate action. Such action may include erecting exclusion fencing around individual plants for the duration of the project. Appropriate actions will be determined by the affected agencies in consultation with the County. Preconstruction surveys shall be conducted to determine the presence of sensitive plants. If sensitive plant species are determined to be present within the project site, construction shall be delayed and the contractor shall contact the Department before proceeding				Identical to CDFG Condition						







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	<p>PRE</p> <p>Immediately prior to commencement of ground disturbing activities (e.g., grading, surveying), the qualified biologist shall, within daylight hours, carefully survey each area to be disturbed for the presence of Morro shoulderband snail and California legless lizard. All ice plant to be removed shall be carefully removed by hand by the qualified monitor to avoid adverse impacts to sensitive species. All legless lizards found by the biological monitor during the noted survey effort shall be moved by the monitor to adjacent, similar habitats out of harms way.</p> <p>The qualified monitor shall move all live snails found to adjacent, similar habitats out of harms way. The location of the living snail(s) shall be marked (e.g., with pinflags) by the qualified monitor. Project-related construction shall not be allowed within 25 feet of each marked location until such time that the monitor confirms that the snail(s) is no longer occupying the marked location and has moved from harms way.</p>					Identical to County Condition							
						<p>DURING</p> <p>A USFWS approved biologist shall inspect all equipment stored outside in the staging area each morning prior to use for the presence of Morro shoulderband snails. Any live snails found in harms way shall be moved per the authorizations and procedures outlined above.</p> <p>The biologist must monitor the action area daily during work activities. Less frequent monitoring may be approved by the USFWS depending on the project timing and the environmental conditions at the project site. The biologist must have the authority to halt the work if Morro shoulderband snails are found. The biologist must collect any living snails and relocate them to</p>							
		<p>PRE/DURING</p> <p>If any sensitive species are observed in project surveys, submit Natural Diversity Data Base (NDDDB) forms to the NDDDB for all preconstruction survey data within five working days of the sightings, and provide DFG Region 4 with copies of the NDDDB forms and survey maps.</p>											
						<p>POST</p> <p>A Service-approved biologist must conduct protocol <b>preconstruction</b> surveys for California red-legged frogs that involve the work areas for the <b>revegetation</b> and 3-year vegetation monitoring programs, including the periodic removal of vegetation from the bypass channel, mowing of annual grasses, periodic cleanout of debris and sediments, and the spraying of herbicides. These surveys must be conducted within 2 days of the start of activities.</p> <p>A Service-approved biologist must <b>monitor</b> activities that involve revegetation and the 3-year vegetation monitoring programs, including the periodic removal of</p>							
	<p>POST</p> <p>Project sites shall be revegetated with an appropriate assemblage of native riparian wetland and upland vegetation suitable for the area. A species list and restoration and monitoring plan shall be included with the project proposal for review and approval by the Service and the FHWA. Such a plan must include, but not be limited to, location of the restoration, species to be used, restoration techniques, time of year the work will be done, identifiable success criteria for completion, and remedial actions if the success criteria are not achieved.</p>					Identical to County Condition							

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				<p>POST</p> <p>Inspect the flood basin after discharge in Santa Rosa Creek has increased sufficiently to "spill" into the basin for the purpose of assessing presence of steelhead. This inspection shall be performed no later than 24 hours following the discovery that the creek is no longer spilling into the basin.</p> <p>Notify NOAA Fisheries if a steelhead is observed in the basin. Such notification shall be made to NOAA Fisheries within a reasonable period of time, but not later than 24 hours after the discovery of a steelhead.</p>					Identical to ACOE Condition			
	<p>PRE</p> <p>Prior to beginning construction, and between the months of October-April, the County will conduct surveys for western spadefoot toads. Surveys will be conducted after the requisite amount of rain has fallen. If spadefoot toads are located at the project site, the County will, in consultation with the Department of Fish and Game, implement the following measures, as necessary:</p> <p>a. Relocate adults and/or tadpoles away from the construction area</p> <p>b. Establish fenced exclusion zones to protect spadefoot toads and their habitat</p> <p>c. Modify the project to avoid or reduce impacts to spadefoot toads.</p> <p>Within two weeks prior to beginning construction, the County will re-survey the project site for the presence of sensitive species. If any State or Federally listed species are discovered, the appropriate State and Federal resource agencies will be notified immediately and the necessary consultations will be initiated.</p>											
	<p>PRE</p> <p>If eucalyptus trees are removed during the monarch overwintering period (September – March), the trees shall be surveyed by a qualified biologist to ensure that monarchs are not present. If monarchs are detected, tree removal shall be postponed until after the monarchs have departed.</p>											
	<p>PRE</p> <p>If, prior to construction, flowing or pooled water is present in the project site, a preconstruction survey for tidewater goby shall be conducted by a qualified biologist.</p>											
	<p>PRE</p> <p>A qualified biological monitor shall survey the project site for the presence of coast range newt immediately prior to any riparian vegetation or instream disturbance. If coast range newt is detected, work shall stop and CDFG shall be contacted.</p>											
						<p>DURING</p> <p>In addition to the measures included in the USFWS' programmatic BO for FHWA-funded projects (April 24, 2003), the County shall implement the following Reasonable and Prudent Measures and the associated Terms and Conditions, and other terms included in the USFWS BO for California red-legged frog:</p> <p>2. Biologists must be authorized by the USFWS before they survey for, capture, and move California red-legged frogs from work areas.</p> <p>a. FHWA must require Caltrans to request USFWS approval of any biologist it wishes to employ to survey for, capture, and move California red-legged frogs from work areas. The</p>						
<b>Remove/Relocate species</b>												
	<p>PRE/DURING</p> <p>Herbaceous and small shrubby vegetation within the clearly demarcated project boundaries that would be disturbed by subsequent project activity shall be removed by hand prior to clearing and grading of the site by heavy equipment or other major construction activities.</p>	<p>PRE/DURING</p> <p>In order to minimize the possibility of injuring California red-legged frogs and other wildlife, herbaceous and small shrubby vegetation within the project boundaries that would be disturbed by subsequent project activities shall be removed by hand prior to the use of heavy equipment or machinery.</p>		Identical to County Condition		Identical to County Condition						



	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	PRE Prior to access way construction near the Highway 101 onramp, willows will be pruned back to the extent possible to discourage subsequent passerine nesting during the planned work window. Such pruning will occur during the late winter, prior to the arrival of spring migrant birds. If the project schedule is not complimentary with this measure, willows will be trimmed immediately under the supervision of a qualified biologist following performance of the following MM-5.					Identical to County Condition						
	PRE During the late winter season preceding project implementation, vacant, existing nests of cliff swallow and black phoebe should be removed from the bridge understructure by a County qualified biologist. Following this removal of existing nests, an approved contractor should periodically and frequently remove all bird nests beneath the bridge as adult birds are constructing them. Doing so will prevent successful nesting of birds within the SHSB understructure and inevitable nest harm during project construction. Section 3503 of the Fish and Game Code protects active bird nests and bird eggs.					Identical to County Condition						
	POST Following project completion, all invasive exotic plant species should be removed from the immediate vicinity of the project site.	Identical to County Condition										
	DURING A Service-approved biologist shall ensure that the spread or introduction of invasive exotic plant species shall be avoided to the maximum extent possible. When practicable, invasive exotic plants in the project areas shall be removed.					Identical to County Condition						
	DURING A service-approved biologist shall ensure that the spread or introduction of invasive exotic plant species shall be avoided to the maximum extent possible. When feasible, exotic species shall be removed from the site. Heavy equipment and other machinery shall be inspected for undesirable species and cleaned when necessary. Any fill material hauled to the site shall be free of exotic species, and the source of the material shall be inspected by a County-approved biologist.	Identical to County Condition				Identical to County Condition						
		PRE/DURING All invasive exotic plant species shall be removed from the project site. Any Vinca, Cape or German ivy, pampas grass, castor bean, Arundo or other exotic plant species removed during any phase of construction shall be bagged and appropriately disposed of in a landfill. Exotic species shall not be used in composting or left otherwise exposed in or around the project site. <b>Heavy equipment and other machinery shall be inspected for the presence of undesirable species prior to on-site use and cleaned to reduce the risk of introducing exotic plant species into the project site.</b>										
	POST Following project completion, remove invasive exotic plant species from the immediate vicinity of the project site. Any Vinca, Cape or German ivy, Castor bean, Arundo, or other exotic plant species shall be bagged and appropriately disposed of in a landfill. Exotic species shall not be used in composting or left otherwise exposed in or around the project site.	Identical to County Condition										
	DURING If necessary, tree removal or pruning may occur during the bird nesting season provided a qualified biologist verifies that no active nests are located within the project area.				Identical to County Condition							
	DURING No Morro shoulderband snail habitat (coastal sage scrub and patches of associated iceplant) will be removed as a result of the development of the project. Construction will be confined to areas void of coastal sage scrub and iceplant associated with coastal sage scrub.					Identical to County Condition						



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	DURING Other native amphibians and reptiles found within the project site will be relocated to suitable habitat near the affected areas.					DURING We recommend that the County relocate any native reptiles and amphibians found within the action area to nearby suitable habitat, if such activities comply with State laws. This would help conserve California red-legged frogs in the region.						
	PRE Prior to project implementation, all fish within the project site shall be captured and relocated. In the event of a tidewater goby death, USFWS shall be contacted and their instructions followed. In addition, the qualified biologist shall immediately contact Caltrans District 5.											
	DURING All captured and relocated fish shall be counted and classified into the appropriate age class. In the event of a steelhead take, NOAA Fisheries shall be contacted and the steelhead shall be removed from the project site and kept in a freezer until further direction from NOAA Fisheries.											
<b>Training/Orientation</b>												
	PRE Prior to each individual beginning work on the project, all construction personnel associated with the project shall attend a crew orientation meeting regarding the sensitive biological resources potentially occurring in the project area (i.e., San Joaquin kit fox). This program shall include a review of the mitigation measures to reduce impacts to biological resources, particularly the San Joaquin kit fox. A fact sheet conveying this information shall be distributed to all contractors, their employees, and other personnel involved with construction of the project. (County Mit. #BR-3)	PRE Prior to starting any activity within the stream, all workers shall have received training from the Operators staff, or approved alternate trainer, on the contents of this Agreement, the resources at stake, and the legal consequences of non-compliance.										
	PRE Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries.	PRE Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of California red-legged frogs, their habitat, general provisions and protections afforded by the Endangered Species Act, measures implemented to protect California red-legged frogs, and a review of the project boundaries.  PRE Prior to construction, a qualified biologist shall conduct training sessions to familiarize all construction personnel with identification of CRLF, and their habitat, general provisions and protections afforded by the ESA, measures implemented to protect CRLF, and a review of the project boundaries. <b>The biologist shall also familiarize construction personnel with other sensitive species potentially occurring at the project site.</b>				Identical to CDFG Condition (both)						
	PRE Before any construction activities begin on a project, a Service-approved biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include a description of the California red-legged frog and its habitat, the importance of the California red-legged frog and its habitat, the general measures that are being implemented to conserve the California red-legged frog as they relate to the project, and the boundaries within which the project may be accomplished. <b>Brochures, books and briefings may be used in the training session, provided that a qualified person is on hand to answer any questions.</b>	Identical to County Condition				Identical to County Condition						











	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	<p>DURING</p> <p>Prior to, during, and following grading and construction activities, no construction vehicles will be staged or serviced (i.e. cleaning, refueling, repaired) within the creek channel. Staging and servicing areas shall be located above the bank of the creek in areas approved by the CDFG. Staging and servicing areas shall also be shown on all plans and delineated within the project site. All cleaning and refueling of equipment during site construction shall be conducted in clearly designated staging areas. Designated staging areas shall be constructed to sufficiently/completely contain all effluents and pollutants generated from washed or refueled vehicles/equipment. Staging areas shall be located in areas that will not drain to the San Luis Creek corridor. All staging and servicing of construction vehicles will be in accordance with Caltrans' "Construction Site Best Management Practices."</p>											
	<p>DURING</p> <p>Staging, fueling, maintenance, and storage of equipment and materials shall be located outside of the waterway.</p>			Identical to County Condition								
	<p>Identical to ACOE Condition</p> <p>DURING</p> <p>Fueling of construction equipment shall take place at least 100 feet away from the high water mark of Lopez Lake and be conducted in such a manner so as to avoid fuel or other hazardous materials from reaching the lake. All project-related spills of hazardous materials shall be cleaned up immediately.</p> <p>During project activities, all project-related spills of hazardous materials within or adjacent to the project site shall be cleaned up immediately. Spill prevention and cleanup materials shall be on-site at all times during construction.</p> <p>If a hazardous spill is discovered prior to or during bridge replacement activities, soil samples shall be analyzed and recommended additional actions to further characterize potential problems shall be completed and implemented in accordance with federal, state, and local requirements.</p>		<p>DURING</p> <p>During project activities, all project-related spills of hazardous materials must be cleaned up immediately. The contractor must have spill prevention and cleanup materials on-site at all times during construction.</p>	<p>DURING</p> <p>Fueling of construction equipment shall take place at least 100 feet away from Santa Rosa Creek and be conducted in such a manner so as to avoid fuel or other hazardous materials from reaching Santa Rosa Creek or the adjacent riparian habitat. All project-related spills of hazardous materials shall be cleaned up immediately.</p>								
	<p>PRE/DURING</p> <p>All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 20 meters from any riparian habitat or water body. The Corps and permittee shall ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the Corps shall ensure that the permittee has prepared a plan to allow a prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.</p>		<p>DURING</p> <p>All fueling of equipment and fuel storage must be performed at least 65 feet from the riparian habitat or waterway in a designated fueling area away from storm drain inlets, drainage systems, and watercourses. No staging or storage of equipment and materials shall occur within areas of the Corps' jurisdiction. The monitor shall ensure contamination of habitat does not occur during such operations. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take shall a spill occur.</p>	Identical to RWQCB Condition		Identical to County Condition						
	<p>DURING</p> <p>Staging, storage, fueling, and maintenance of equipment and materials shall be located outside of the Corps' jurisdiction or 200 feet from any riparian habitat or water body. Discuss with workers the importance of preventing spills and of the appropriate measures that should be taken if a spill were to occur. Stationary equipment such as motors, pumps, generators, compressors, and welders, located within the dry portion of the stream channel or adjacent to the stream shall be positioned over drip-pans.</p>	Identical to County Condition	Identical to County Condition	Identical to County Condition		Identical to County Condition						









	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	DURING In accordance with the CZLUA, weekday construction shall be confined to the period between 7:00 a.m. and 9:00 p.m. Weekend construction, if required, will be confined to the period between 8:00 a.m. and 5:00 p.m. Further, all large construction equipment will be equipped with "critical" grade noise mufflers, which reduce noise levels by as much as 5 dBA over stock mufflers. Engines will be tuned to insure lowest possible noise levels. Occupational Safety and Health Administration (OSHA)-required back-up beepers on equipment will be turned to the lowest setting to minimize noise levels.											
	DURING Prevent grading equipment from crossing, depositing excavated material in or near, storing in or near, or otherwise disturbing, the Santa Rosa Creek channel.			Identical to County Condition		DURING Grading equipment will be prevented from crossing Santa Rosa Creek and from the deposition or stockpiling of excavated materials in or near the creek channel.						
<b>Erosion Control</b>												
				DURING No material shall be placed in excess of the minimum needed for erosion protection.								
	DURING To control erosion during and after project implementation, the applicant shall implement best management practices, as identified by the appropriate Regional Water Quality Control Board.					Identical to County Condition						
	DURING Best Management Practices shall be installed to control erosion and sedimentation.	DURING BMP's will be employed to ensure that vegetation, soil, rock and man-made material including concrete or petroleum products generated during construction will be prevented from entering the stream.	Identical to County Condition									
		DURING Work crews and monitors will ensure that construction activity minimizes creek bank erosion (a minor amount of soil raveling may occur where existing utilities are cut off at the top of bank).										
	DURING The permittee shall employ all standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive erosion do not enter the creek during construction. This shall include the installation and maintenance of erosion control measures during the proposed action and afterwards if necessary to avoid input of material to the creek.	DURING No phase of the project may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm event if that phase may cause the introduction of sediments into the stream. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted prior to start up of any phase of the project that may result in sediment runoff to the river.	Identical to County Condition			Identical to CDFO Condition						
		DURING The contractor shall take every necessary precaution to ensure that no concrete or concrete products enter the stream channel. No concrete washings shall be permitted to enter the stream channel and no debris from concrete work shall be disposed of at the project site. Concrete shall be allowed to completely cure for a period of not less than 30 days before the isolation barrier is removed from the project site. All concrete chips and debris from removal of the forms shall be cleaned up and removed from the stream.	DURING Under no circumstances shall water from equipment washing or concrete wash-water enter the channel.									
	DURING All necessary precautions shall be taken to avoid contact of wet cement with flowing water. Ensure that curing concrete does not come into contact with water of the State. If sheeting is used to cover the curing concrete as proposed, continuous monitoring of the site will be necessary.		Identical to County Condition	Identical to County Condition								
		DURING The contractor shall take every necessary precaution to ensure that no concrete or concrete products enter the stream channel. No concrete washings shall be permitted to enter the stream channel and no debris from concrete work shall be disposed of at the project site. Concrete in the bridge abutments shall be allowed to completely cure before the forms are removed. All concrete chips and debris from removal of the forms shall be cleaned up and removed from the stream channel immediately and no construction activities shall occur until the debris is removed. In the event that any concrete or concrete product inadvertently enters the stream channel, all construction activity shall immediately cease and shall not resume until the concrete or concrete products are completely cleaned up and removed from the stream channel.				Identical to CDFO Condition						







	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	DURING The rip-rap boulders shall be interplanted with willow stakes to maintain riparian canopy over the creek. This work may need to be done during rip-rap construction to ensure that proper depth of willow stakes is achieved.  An energy dissipater shall be installed downstream of the rip-rap wall (i.e. root wads, baffles, rocks).		DURING During riprap construction, the Contractor must plant willow poles in the interstitial spaces of the riprap to maintain a riparian canopy over the creek.									
<b>Water Diversion</b>												
		DURING To avoid increasing turbidity or suspended sediment concentration within the stream, the worksite shall be isolated from flowing water. Prior to construction, cofferdams shall be constructed around the culvert outlet to isolate the site. The coffer dams may be constructed with clean river gravel or sand bags, and may be sealed with Visqueen or sheet plastic.	DURING Water shall be diverted around work areas to prevent increased turbidity or contamination. (RWQCB#7)  Diversion of low water flow shall be performed in a manner that prevents increased turbidity.			Identical to CDFG Condition						
		PRE The concrete layer on the bottom of the CMP shall be installed in a manner that will concentrate flow in the center of the culvert to facilitate fish passage.										
		DURING Prior to the start of construction, the stream shall be diverted around or through the work area and the work area shall be isolated from the flowing stream. To isolate the work area, water-tight cofferdams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream cofferdam and discharge downstream of the downstream cofferdam. The pipe shall be adequately sized to contain the highest level of flow anticipated during the project.										
		DURING Cofferdams shall be constructed of a non-erodible material which does not contain soil or fine sediment. Cofferdams and, the stream diversion system shall remain in place and functional throughout the construction period. If the cofferdams or stream diversion fail, they shall be repaired immediately. Sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the diversion.										
	DURING Minimize the area affected by riprap by using vegetated riprap or other bioengineered techniques.	Identical to County Condition										
	DURING Best management practices should be implemented to divert stream flow around the work area (isolate the workspace from flowing water) during construction to minimize the potential for downstream sedimentation.	Identical to County Condition										
	DURING Standard measures for the control of project generated runoff water should work well at this site, provided that measures are taken to convey concentrated runoff over the stream banks and into the existing water channels. These measures include: * Placement of rock riprap below the bridge abutments to protect stream banks from scouring (these are shaded areas where natural vegetation cannot gain a vigorous foothold). * Placement of culverts or armored ditches where roadside drainage ditches "break-over" stream banks. * Seeding and hydromulching of exposed soil areas as soon as possible after completion of construction. * Commencing permanent revegetation as soon as possible after completion of construction. * Lining drainage ditches with asphalt or concrete where flow velocities are high. * Placement of energy dissipating devices at the downstream end of culverts and ditches where water velocities are high. * Placement of drainage control structures and devices where necessary to control											
	DURING The permittee shall not perform any work in flowing water or divert flowing water other than is necessary to isolate the workspace from water. If it becomes necessary to temporarily dewater the workspace, the permittee shall use only hand-placed sandbags as described in the U.S. Army Corps of Engineers permit application number 200200128-JCM.	DURING If the excavation site must be dewatered during construction, any muddy or otherwise contaminated water shall be pumped to a settling pond located outside the stream channel or to a stable upland site where the water can clear prior to re-entering the stream.		Identical to County Condition						DURING When dewatering any area, with a pump shall remove water to an upland disposal site, or a filtering system shall be used to collect and then to return clear water to the creek for the purpose of avoiding input of sediment/water slurry to flowing water.		



	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
									<p>DURING/POST The County shall implement the following Reasonable and Prudent Measures and the associated Terms and Conditions included in the NOAA Fisheries BO for steelhead:</p> <p>a. The diversion shall be removed immediately after work is completed. b. All work within the stream channel shall be conducted within the boundaries of the dewatered construction area.</p>			
	<p>DURING During construction periods that involve concrete work, the water-containing portion of the seasonal stream shall be culverted to prevent debris, soil or concrete from entering the water. The culvert shall to be left in place until all in-stream work is completed.</p>	<p>DURING If concrete grout is used to secure rock slope protection in place or for any other reason, the contractor shall take precautions to ensure that no concrete, concrete grout, or mortar enters the stream channel. At a minimum, the project site shall be isolated from the stream and surrounding area using filter fabric silt fencing, straw bales, straw wattles or other acceptable measures. If any concrete products enter the stream channel at any time, construction shall immediately cease and the concrete product cleaned up immediately. The operator shall take every precaution necessary to ensure that no concrete, concrete grout of mortar enters flowing water at any time.</p>										
		<p>DURING The diversion shall remain in place and functional while concrete is being poured and set, and shall remain in place for a minimum of fourteen days after pouring until the concrete has cured. Runoff from concrete shall not be allowed to enter the stream channel.</p>										
	<p>DURING Prior to any site disturbance, the streambed of San Luis Obispo Creek within the project site shall be dewatered. The form and function of the diversion and all pumps included in the dewatering strategy shall be checked twice-daily, at a minimum, to ensure a dry work environment and minimize impingement/entrainment impacts to aquatic species. All pumps used shall include mesh intake baskets with screen sizes no larger than 0.5 cm to prevent entrainment of steelhead or other sensitive aquatic species through the pump system.</p>											
<p><b>UNKNOWN</b> Upon completion of construction activities, any barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate. The rip-rap shall be designed with gaps maintained between the boulders to allow for fish refugia. These gaps shall not be filled with cobbles or other materials</p>	<p>DURING If a work site is to be temporarily dewatered by pumping, intakes shall be completely screened with wire mesh not larger than five millimeters (mm) to prevent California red legged frogs from entering the pump system. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction. Upon completion of construction activities, any barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate.</p>	<p>Identical to County Condition</p>				<p>Identical to County Condition</p>						

	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	<p><b>DURING</b> During project activities, if pumps are incorporated to assist in temporarily dewatering the site, intakes shall be completely screened with wire mesh of no larger than 0.2-in wire mesh to prevent tidewater goby steelhead young-of-year, and California red-legged frog from entering the pump system. Pumps shall release the additional water to an upland location allowing the water to filter out into the bank vegetation prior to re-entering Cayucos Creek downstream of the isolated area. The outlet of the pump shall be relocated to various locations to limit bank saturation and to allow for proper sediment filtration prior to the water re-entering Cayucos Creek. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction. The methods and materials used in any dewatering shall be determined by the FHWA in consultation with the USFWS on a site-specific basis. Upon completion of construction activities, any diversions or barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the creek.</p>											
	<p><b>DURING</b> If dewatering of the area behind any diversion is necessary, either a pump shall remove water to an upland disposal site, or a filtering system shall be used to collect then return clear water to the creek for the purpose of avoiding input of sediment/water slurry to flowing water.</p>			Identical to County Condition								
	<p><b>PRE</b> If construction occurs when there is surface water flow, the construction area will be isolated from the flow by a silt fence keyed into the stream bank at both ends and its base.</p>			Identical to County Condition								
	<p><b>DURING</b> If feasible, use quick-set concrete to reduce time needed to pump water. If possible, line culvert with plastic while concrete cures so that stream flow can be released sooner. This plastic sheeting needs to be inspected and maintained on a daily basis. Do not use diesel, grease or any other petroleum based substance on concrete forms.</p>	Identical to County Condition	Identical to County Condition									
	<p><b>DURING</b> Any fueled equipment necessary for stream diversion will be placed in an adequate containment area lined with plastic.</p>											
				<p><b>DURING</b> Dewatering activities will result in only clean, silt free water being released into the creek.</p>								
		<p><b>DURING</b> Any temporary dam (coffer dam) constructed shall only be built from a non-erodible material which does not contain soil or fine sediment.</p>										
	<p><b>PRE</b> Prior to any site disturbance, the streambed of Cayucos Creek within the project site shall be dewatered. The dewatering shall occur according to a stream Diversion and Dewatering Plan, prepared for the review and approval of the County of San Luis Obispo Environmental Coordinator, the NMFS, and other affected agencies. The monitoring biologist may assist the contractor with construction of the necessary dams and the fishway, at the contractor's request. The form and function of the diversion and all pumps included in the dewatering strategy shall be checked throughout project construction by a qualified biologist to ensure a dry work environment and minimize impacts to aquatic species. An appropriate stream diversion system must be approved by NOAA Fisheries. The Stream Diversion and Dewatering Plan shall be conducted under the direct and continuous supervision of a qualified biologist to ensure the proper form and function of the diversion. The diversion structure shall be monitored throughout project construction by the work crews, and by a qualified biologist.</p>											
	<p><b>DURING</b> Unless approved by the USFWS, water shall not be impounded in a manner that may attract California red-legged frogs.</p>											





	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	DURING During construction, stockpiled earth material shall be sprayed as needed to minimize dust generation.											
	DURING Grading and scraping operations shall be suspended when wind speeds exceed 20 mph (one hour average).											
	DURING Engines used to power pumps shall be certified to meet the 1996 Federal and ARB clean air standards (0.015 pounds per horsepower-hour NOR) to reduce NO <sub>x</sub> emissions by approximately 50 percent. However, NO <sub>x</sub> emissions would remain above the 25 pound per day significance threshold. Based on the CEQA Air Quality Handbook (APCD, 1997), it appears that the Tier 3 threshold of 25 tons per year is applicable if all feasible mitigation is applied.											
	DURING/POST After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated immediately by watering or revegetating or spreading soil binders to minimize dust generation until the area is paved or otherwise developed so that dust generation will not occur.											
	PRE Prior to the initiation of demolition activities, the County shall complete the following: • Notify the APCD. • Submit an asbestos survey conducted by a Certified Asbestos Inspector to the APCD. • Implement applicable APCD removal and disposal requirements of identified asbestos-containing material.  PRE Prior to the initiation of demolition activities, the County shall implement lead abatement pursuant to the California Division of Occupation and Health requirements											
<b>Vegetation</b>												
		DURING Vegetation or material removed from the stream shall not be stockpiled in the streambed or on its bank.										
	DURING Project related disturbance will be minimized to the greatest extent feasible. Vegetation outside of the project limits will not be removed or impacted in any way.	DURING The disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations and shall only occur within the defined work area.  Precautions shall be taken to avoid other damage to vegetation by people or equipment.	DURING The disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations and shall only occur within the defined work area.  Precautions shall be taken to avoid other damage to vegetation by people or equipment.							DURING Minimize the amount and extent of temporary and permanent changes to quality and quantity of instream and riparian habitat.		
	DURING Vegetation will be removed or trimmed only as necessary.	DURING Vegetation loss and disturbance will be minimized to the maximum extent feasible.	Identical to County Condition									
	DURING Trim in advance any branches likely to be damaged during construction related activities with appropriate hand-held equipment. No bulldozer/backhoe type equipment shall be used to remove vegetation. Trees over four (4) inches diameter at breast height (dbh) that must be removed from the project site shall be clearly marked with highly visible flagging. Only trees marked with this flagging shall be removed from the project site.	Identical to County Condition										
		PRE Prior to construction, a qualified biologist shall clearly mark/flag trees within the designated construction corridor that should be avoided or will be trimmed only as directed by the arborist. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Vegetation outside the construction corridor shall not be removed or damaged without prior consultation and approval of a Department representative.										
		DURING Where feasible, hand tools (chain saw, etc.) shall be used to trim vegetation to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone. Any trees which must be cut are to be cut at ground level and the root mass left in place to maintain bank stability. The perimeter of the work site shall be adequately flagged to prevent damage to adjacent riparian habitat.										
<b>Wildlife (general)</b>												





	County	CDFG	RWQCB	ACOE	Caltrans	USFWS	FHWA	Coastal Permit	NOAA Fisheries	NMFS	SWRCB	GOLDEN CONDITION
	<p>DURING</p> <p>Prior to commencement of any site-disturbing and/or construction activities, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (e.g. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. A kit fox fact sheet shall also be developed and distributed to all contractors, employers and other personnel involved with the construction of the project.</p>											
	<p>DURING</p> <p>During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.</p>											
	<p>DURING</p> <p>During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.</p>											
	<p>DURING</p> <p>Prior to, during and after the site-disturbance and/or construction phase, use of pesticides shall be in compliance with all local, state and federal regulations. <b>This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.</b></p>											
	<p>DURING</p> <p>During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the County. In the event that any observations are made of injured or dead kit fox, the County shall immediately notify the U.S. Fish and Wildlife Service and Department by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.</p>											
<b>Tree Removal/Replacement</b>												















